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Rules, Regulations, Orders

TITLE 7—AGRICULTURE

CHAPTER IX—SURPLUS MARKETING ADMINISTRATION

MARKETING ORDERS

PART 949—ORDER REGULATING THE HANDLING OF HOPS GROWN IN THE STATES OF OREGON, CALIFORNIA, AND WASHINGTON

Sec.

Whereas, under the provisions of Public Act No. 10, 73d Congress, as amended and as reenacted and amended by the Agricultural Marketing Agreement Act of 1937 (50 Stat. 246), as amended (hereinafter referred to as the "act"), it is provided that the Secretary of Agriculture of the United States (hereinafter referred to as the "Secretary") shall, subject to the provisions of the act, issue orders regulating such handling of certain agricultural commodities, including hops, as is in the current of interstate or foreign commerce, or which directly burdens, obstructs, or affects interstate or foreign commerce; and

Whereas, the Secretary, having reason to believe that the issuance of an order would tend to effectuate the declared policy of the act with respect to the establishment and maintenance of such orderly marketing conditions for hops grown in the States of Oregon, California, Washington, and Idaho as would establish prices to the producers of hops at a level that would give such hops a purchasing power with respect to the articles that the producers thereof buy equivalent to the purchasing power of such hops during the base period August 1909–July 1914, conducted a public hearing[1] in Yakima, Washington, on March 11, 12, and 13, 1940, in Salem, Oregon, on March 14, 15, and 16, 1940, and in Santa Rosa, California, on March 18, 19, 20, and 21, 1940, pursuant to due notice given to all interested parties on February 23, 1940, on a proposed marketing agreement and a proposed order regulating such handling of hops grown in the States of Oregon, California, Washington, and Idaho as is in the current of interstate or foreign commerce, or which directly burdens, obstructs, or affects such commerce in said hops, and at such hearing all interested persons in attendance were afforded due opportunity to be heard concerning the proposed marketing agreement and the proposed order; and

[1] 5 F.R. 761.

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FEDERAL REGISTER

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Whereas the Secretary finds upon the basis of the evidence introduced at the hearing and the record thereof:

(1) that at the time of the hearing the prices received by the producers of hops grown in the States of Oregon, California, and Washington, were at a level that gave such hops a purchasing power, with respect to articles that the producers thereof buy, appreciably below the purchasing power of such hops during the base period;

(2) that the regulation of the shipments of hops by proration, as provided in § 949.5 and § 949.6 of this order, subject to the terms and provisions contained in the order, will tend to establish and maintain a more stable market for said hops, and tend to restore prices to growers of said hops to a level that will have a purchasing power, with respect to articles that producers buy, equivalent to the purchasing power of said hops in the base period;

(3) that the method of regulating shipments, as provided in this order, is fair and equitable;

(4) that the method of issuing in the name of each grower an allotment certificate or certificates, as evidence of the respective grower's salable allotment for the respective year, as provided in this order, is fair and equitable;

(5) that, as provided in this order, it is fair and equitable to require the pro rata contribution of handlers to the expenses of the administrative agencies created by such order, and that the basis stated in the order for the contribution of handlers is fair and equitable;

(6) that this order is limited in its application to the smallest regional production area that is practicable, in order to effectuate the declared policy of the act, and the issuance of several orders applicable to any subdivision of the regional production area, included in said order, would not effectively carry out the declared policy of the act, and the terms and provisions of said order prescribe, so far as practicable, such different terms, applicable to different production areas, as are necessary in order to give due recognition to the differences in production and marketing of such hops in such areas; and

(7) that this order and all of the terms and provisions thereof are fair and equitable and will tend to effectuate the declared policy of the act, with respect to hops grown in said area, by establishing and maintaining such orderly marketing conditions therefor as will tend to establish prices to producers thereof at a level that will give said hops a purchasing power, with respect to articles that such producers buy, equivalent to the purchasing power of such hops in the aforesaid base period and by protecting the interest of the consumer by (a) approaching such level of prices, which it is declared in the act to be the policy of Congress to establish, by a gradual correction of the current level of prices at as rapid a rate as the Secretary deems to be in the public interest and feasible in view of the current consumptive demand in domestic and foreign markets, and by (b) authorizing no action which has for its purpose the maintenance of prices to producers above the aforesaid level which it is declared in the act to be the policy of Congress to establish; and

Whereas, the Secretary further finds:

(1) that the marketing agreement regulating the handling of hops grown in the States of Oregon, California, and Washington, executed by the Secretary on August 1, 1940, regarding which the aforesaid public hearing was held, has been signed by handlers (excluding cooperative associations of producers who are not engaged in processing, distributing, or shipping the commodity covered by this order) who handled not less than fifty (50) percent of the volume of said commodity, covered by this order, produced within the States of Oregon, California, and Washington;

(2) that this order regulates the handling of said hops in the same manner as the aforesaid marketing agreement, and that this order is applicable only to persons in the respective classes of industrial and commercial activities specified in said marketing agreement;

(3) that the issuance of this order is favored by producers who, during the period from August 1, 1938, to July 31, 1939, both dates inclusive (which is hereby determined to be a representative period), produced for market at least two-thirds of the volume of such commodity, covered by this order, produced for market within the production area specified in this order; and

(4) that the issuance of this order is favored by at least two-thirds of the producers of such commodity, covered by this order, in said production area specified in the order, who, during the period from August 1, 1938, to July 31, 1939, both dates inclusive (which is hereby determined to be a representative period), were engaged, within the production area specified in the order, in producing hops for market:

Now, therefore, it is hereby ordered, pursuant to the provisions of the aforesaid act, that such handling of hops grown in the States of Oregon, California, and Washington as is in the current of interstate or foreign commerce, or which directly burdens, obstructs, or affects interstate or foreign commerce in such hops, from and after the date hereinafter specified, shall be in conformity to and in compliance with the terms and conditions of this order.

§ 949.1 *Definitions.* As used herein, the following terms have the following meanings:

(a) "Secretary" means the Secretary of Agriculture of the United States.

(b) "Act" means Public Act No. 10, 73d Congress (May 12, 1933), as amended and as reenacted and amended by the Agricultural Marketing Agreement Act of 1937 (50 Stat. 246), approved on June 3, 1937, as amended as of the effective date hereof.

(c) "Person" means an individual, partnership, corporation, association, or any other business unit.

(d) "Hops" means the pistillate cones, either in green or dried state, of the vine *Humulus lupulus* or *Humulus amer-*

icanus, grown in the States of Oregon, California, or Washington.

(e) "Grower" means any person (including each member of a partnership) engaged in growing hops, and includes any (1) grower operating his or its own land, (2) cash tenant, (3) landlord with any crop share renter or share cropper, and (4) any share renter or share cropper.

(f) "Dealer" means any handler other than a grower or brewer.

(g) "Grower-dealer" means any grower, other than a brewer, who handles for his or its own account any hops other than those of his or its own production: *Provided*, That handling transactions pursuant to § 949.6 (f) (2) hereof shall not be considered in this definition.

(h) "Brewer" means any person who uses hops, or any product thereof, in the process of manufacturing any malt beverage.

(i) "Handler" means any person who, as or through a principal, agent, broker, representative, or otherwise, (1) markets or transports to market (except as a common carrier of hops owned by another person) hops in the current of interstate or foreign commerce, or so as directly to burden, obstruct, or affect interstate or foreign commerce, or (2) purchases, takes consignment of, accepts delivery of in connection with a purchase or sale (except as a common carrier of hops owned by another person), or otherwise acquires, within Oregon, California, or Washington, hops, from a grower or any other person, in the current of interstate or foreign commerce, or so as directly to burden, obstruct, or affect interstate or foreign commerce.

(j) "To handle" or "handling" means (1) to market or transport to market (except as a common carrier of hops owned by another person) hops in the current of interstate or foreign commerce, or so as directly to burden, obstruct, or affect interstate or foreign commerce, or (2) to purchase, take consignment of, accept delivery of in connection with a purchase or sale (except as a common carrier of hops owned by another person), or otherwise acquire, within Oregon, California, or Washington, hops from a grower or any other person, in the current of interstate or foreign commerce, or so as directly to burden, obstruct, or affect interstate or foreign commerce.

(k) "Control Board" means the Control Board provided for in and created pursuant to § 949.2 hereof.

(l) "Growers Allocation Committee" means the Growers Allocation Committee provided for in and created pursuant to § 949.3 hereof.

(m) "Advisory Committee" means a committee established pursuant to § 949.4 hereof.

(n) "Managing Agent" means the Managing Agent selected pursuant to § 949.2 (g) (7) hereof.

(o) "Marketing Agreement No. 78" means the marketing agreement regulating the handling of hops grown in the States of Oregon, California, and Washington, executed by the Secretary on August 11, 1938, effective on and after August 15, 1938.

(p) "Order No. 28" means the order regulating the handling of hops grown in the States of Oregon, California, and Washington, issued by the Secretary on August 11, 1938, effective on and after August 15, 1938.*

§ 949.2 *Control board*—(a) *Designation of Control Board.* A Control Board consisting of sixteen (16) members is hereby established to administer the terms and provisions hereof as herein specifically provided. The original members and their respective alternates shall be as follows:

Grower Members

(1) W. H. Anderson, Eugene, Oregon, and his alternate is Romeo Gouley, Brooks, Oregon;

(2) William Krebs, Jefferson, Oregon, and his alternate is Ferd Hartwick, Banks, Oregon;

(3) Dean H. Walker, Independence, Oregon, and his alternate is George E. Desmarais, Moxee City, Washington;

(4) E. H. Peterson, Santa Rosa, California, and his alternate is I. D. Wood, Santa Rosa, California;

(5) Warren Brown, Ukiah, California, and his alternate is J. C. Johnson, Ukiah, California;

(6) P. M. Rooney, Sacramento, California, and his alternate is K. L. Lovdal, Sacramento, California;

(7) B. D. McKelheer, Yakima, Washington, and his alternate is Elzard Rabie, Moxee City, Washington;

(8) J. R. Rutherford, Yakima, Washington, and his alternate is Edward M. Schott, Selah, Washington;

Grower-Dealer Members

(9) John I. Haas, Metropolitan Bank Building, Washington, D. C., and his alternate is Fred J. Haas, Metropolitan Bank Building, Washington, D. C.;

(10) Henry A. Cornoyer, McGilchrist Building, Salem, Oregon, and his alternate is James R. Linn, Bush-Breyman Building, Salem, Oregon;

Brewer Members

(11) G. L. Becker, Ogden, Utah, and his alternate is Charles Lick, Los Angeles, California;

(12) Irving J. Solomon, Chicago, Illinois, and his alternate is Peter G. Schmidt, Olympia, Washington;

(13) Karl F. Schuster, San Francisco, California, and his alternate is Alvin C. Gluek, 2021 Marshall Street, N. E., Minneapolis, Minnesota;

(14) G. O. Goerl, Oakland, California, and his alternate is William Bruckmann, Cincinnati, Ohio;

Dealer Members

(15) Ludwig S. Lyon, 535 Fifth Avenue, New York City, New York, and his alternate is Franz Bing, 150 Nassau Street, New York City, New York;

(16) Robert Oppenheim, 33 Water Street, New York City, New York, and his alternate is Al Seidenberg, 17 battery Place, New York City, New York.

Each of the aforesaid members and his respective alternate shall serve for a term ending on April 1, 1941: *Provided, however*, That each of said members and alternates shall serve until his respective successor shall have been selected and qualified.

(b) *Nomination and selection of succeeding members.* (1) The members and alternates of said Control Board to succeed those selected for the aforesaid initial term ending on April 1, 1941, shall be selected as hereinafter in this section provided, and shall serve thereafter for a term ending at the time of the termination hereof. Each person selected as a member or alternate of the Control Board, including but not being limited to those designated herein as the original members and alternates, shall qualify by filing with the Secretary, or with the designated representative of the Secretary, a written acceptance of the appointment. Failure of any appointee to qualify within twenty (20) days after his receipt of notice of the appointment shall be cause for the Secretary to appoint another person in his stead.

(2) Six (6) members of the Control Board, selected subsequently to those designated as the initial members, shall be growers, or officers or employees thereof, who are not grower-dealers; and of said group two (2) members shall be growers of hops in and residents of the State of Oregon, and two (2) members shall be growers of hops in and residents of the State of California, and two (2) members shall be growers of hops in and residents of the State of Washington. The grower members from each of said States shall be selected by the Secretary from a group of two (2) nominees designated by the Advisory Committee for the respective State, or the Secretary may select some or all of said grower members from among other growers of hops in the respective State.

(3) Two (2) members of the Control Board shall be selected by the Secretary from a group of two (2) nominees designated by the six grower members of the Control Board, or the Secretary may select one or both of said two members from among other persons: *Provided, however*, That at least one of those two members shall be a grower of hops, or an officer or employee of a grower, in and a resident of one of the aforesaid States.

(4) One (1) member of the Control Board, selected subsequently to those designated as the initial members, shall

*§§ 949.1 to 949.16, inclusive, issued under the authority contained in 48 Stat. 31 (1933); 7 U.S.C. sec. 601 et seq. (1934); 49 Stat. 750 (1935); 50 Stat. 246 (1937); 52 Stat. 215 (1938); 53 Stat. 782 (1939); 7 U.S.C. sec. 601 et seq. (Supp. V, 1939).

be a grower-dealer, or an officer or employee of a grower-dealer, residing in Oregon, California, or Washington, selected by the Secretary; and the Secretary may select as such grower-dealer member any person, qualified as aforesaid, who is nominated by means of an election, as provided for hereinafter, in which all and only grower-dealers residing in said States shall be entitled to participate, or the Secretary may select said member from among other grower-dealers, or officers or employees thereof, residing in said States.

(5) Three (3) members of the Control Board, selected subsequently to those designated as the initial members, shall be dealers or grower-dealers, or officers or employees of dealers or grower-dealers, selected by the Secretary from a group of three (3) nominees designated by means of an election, as provided for hereinafter, in which all and only grower-dealers residing outside of Oregon, California, and Washington, and all dealers wherever residing, shall be entitled to participate, or the Secretary may select any or all of said members from among other such grower-dealers and dealers, or officers or employees thereof: *Provided, however,* That one (1) of such three (3) members selected by the Secretary shall be a grower-dealer, or an officer or employee thereof.

(6) Four (4) members of the Control Board, selected subsequently to those designated as the initial members, shall be brewers, or officers or employees of brewers, and shall be selected by the Secretary from a group of four (4) nominees designated by means of an election, as provided for hereinafter, in which all and only brewers shall be entitled to participate, or the Secretary may select some or all of the said four members of the Control Board from among other brewers, or officers or employees thereof.

(7) Nominees for the members of the Control Board (other than grower members referred to in subparagraphs (2) and (3) of paragraph (b) of this section), selected subsequently to those designated as the initial members, shall be selected by the above-designated groups in the following manner: The Control Board shall submit to the Secretary, not later than February 1, 1941, regulations prescribing the method or methods for the selection of groups of nominees, as in this section provided, from which the Secretary may select the succeeding members and alternates of the Control Board; and, upon the approval of regulations prescribing the method or methods for selecting said groups of nominees, which regulations shall assure to all persons eligible to participate in each such election adequate opportunity to suggest candidates and indicate preferences for nominees and to vote in accordance with the aforesaid regulations, the Control Board shall supervise and conduct such elections in accordance with the regulations thus approved by the Secretary.

(8) In the event that any of the groups entitled hereunder to submit nominees, as aforesaid, shall fail to make such nomination for any successor member or alternate within twenty (20) days after the time fixed therefor by the Control Board as hereinbefore provided, the Secretary may select each such member or alternate without previous nomination.

(c) *Alternates.* (1) There shall be an alternate for each member of the Control Board. Each alternate shall be of the same qualifications, be nominated and selected in the same manner, and hold office for the same term, as the member for whom he is alternate. An alternate for a member of the Control Board shall, in the event of that member's absence, act in the place and stead of that member; and, in the event of such member's (1) removal, (2) resignation, (3) disqualification, or (4) death, the alternate for said member, until a successor for the unexpired term of said member has been selected, shall act in the place and stead of said member.

(2) In the event any member of the Control Board and his alternate are both unable or fail to attend a meeting of the Control Board, any alternate for any other member nominated by the same group that nominated the absent member may serve in the place and stead of the absent member and his alternate; or in the event such other alternate cannot attend, or there is no such other alternate, then the absent member, or, in the event of his disability or a vacancy, his alternate, may designate, subject to the approval of the Secretary, a temporary substitute to attend such meeting with the power to act in the place and stead of that member.

(d) *Vacancies.* To fill any vacancy which occurs prior to April 1, 1941, occasioned by the failure of any person, selected as a member of the Control Board or as an alternate, to qualify, or the death, removal, resignation, or disqualification of any qualified member or alternate, a successor for his unexpired term shall be selected by the Secretary. To fill any vacancy which occurs subsequent to said date, occasioned by the failure of any person, selected as a member of the Control Board or as an alternate, to qualify, or the death, removal, resignation, or disqualification of any qualified member or alternate, a successor for his unexpired term shall be nominated and selected in the manner herein specified for the nomination and selection of the member or alternate thus to be succeeded. If such nomination for any such vacancy is not made within twenty (20) days after the beginning of such vacancy, the Secretary may select a member or alternate to fill such vacancy without waiting for a nomination to be made.

(e) *Compensation.* The members of the Control Board, and their respective alternates, shall serve without compensation, but shall be reimbursed for expenses necessarily incurred in the performance of their respective duties.

(f) *Powers.* The Control Board shall have the following powers:

(1) to administer, as herein specifically provided, the terms and provisions of this order;

(2) to make administrative rules and regulations in accordance herewith, and to effectuate the terms and provisions of this order;

(3) to receive, investigate, and report to the Secretary complaints of violations of this order; and

(4) to recommend to the Secretary amendments to this order.

(g) *Duties.* The duties of the Control Board shall be as follows:

(1) to act as intermediary between the Secretary and any grower or handler;

(2) to keep minute books and records which will clearly reflect all of its acts and transactions, and which shall be subject at any time to examination by the Secretary or his designated representative;

(3) to assemble data on the growing, handling, shipping, and marketing conditions relative to hops; and to furnish to the Secretary at his request such information as may be available to the Control Board;

(4) to perform such duties as may be assigned to it from time to time by the Secretary in connection with the administration of Section 32 of the Act to Amend the Agricultural Adjustment Act, and for other purposes, Public Act No. 320, 74th Congress, approved August 24, 1935, as amended;

(5) to submit to the Secretary from time to time, for his approval, a budget of its expenses, including but not being limited to the expenses of the Growers Allocation Committee and of the Advisory Committees; and to report from time to time to the Secretary expenditures made by the Control Board;

(6) to cause the books of the Control Board to be audited by one or more competent accountants at least once each fiscal year and at such other times as the Control Board may deem necessary, or as the Secretary may request, and to file with the Secretary a copy of each audit report made;

(7) to employ a Managing Agent who, during his employment as such, shall not be a grower, dealer, grower-dealer, or brewer, nor in the employment thereof, and who shall serve as the secretary of the Growers Allocation Committee, and shall have such other duties as are specified for him in this order or by the Control Board; and to employ such other employees as the Control Board may deem necessary, and to determine the salaries and define the duties thereof;

(8) to give to the Secretary, or his designated representative, the same notice of meetings of the Control Board

as is given to the members of the Control Board; and

(9) to defend all legal proceedings against any member or alternate (individually or as a member or alternate), officer, or employee of the Control Board arising out of any act or omission done or made in good faith pursuant to the provisions of this order.

(h) *Procedure.* (1) The Control Board shall adopt rules and regulations governing its procedure and the performance of its duties and powers under this order, and shall select a chairman and such other officers as it may deem advisable.

(2) The Control Board shall not perform any of its powers or duties under this order while there are more than six (6) vacancies in its membership, not inclusive of alternates. A quorum shall consist of eleven (11) members, or alternates or substitutes then serving in the place and stead of any members, in attendance at the meeting, and all decisions of the Control Board shall be made by not less than nine (9) affirmative votes.

(3) The Control Board may provide for voting by telephone, mail, or telegraph upon due notice to all members; and any member voting by telephone shall promptly thereafter confirm in writing his vote so cast.

(4) Each member of the Control Board, including successors and alternates, and any agent or employee appointed or employed by the Control Board, shall be subject to removal or suspension by the Secretary at any time. Each regulation, decision, determination, or other act of the Control Board shall be subject to the continuing right of the Secretary to disapprove of the same at any time, and, upon such disapproval, shall be deemed null and void except as to acts done in reliance thereon or in compliance therewith prior to announcement of such disapproval by the Secretary.

(i) *Funds and other property.* (1) All funds received by the Control Board pursuant to this order shall be used solely for the purposes specified in this order, and the Secretary may require the Control Board and its members to account for all receipts and disbursements.

(2) Upon the death, resignation, removal, or expiration of term of any member or employee of the Control Board, all books, records, funds, and other property in his possession belonging to the Control Board, or to which the Control Board is entitled to possession, shall be delivered to the Control Board, or to that member's successor in office, and such assignments and other instruments shall be executed as may be necessary to vest in the Control Board, or in the successor of such member or employee, full title to all such books, records, funds, and other property.

(3) The Control Board, with the approval of the Secretary, may maintain in its own name, or in the names of its members, legal action against any handler for the collection of that handler's pro rata share of expenses which may be due under this order.*

§ 949.3 *Growers Allocation Committee*—(a) *Members.* The members of the Control Board designated as grower members and those designated as grower-dealer members, and their respective successors, shall constitute the "Growers Allocation Committee". Said committee shall have such duties and powers as are expressly specified, in this order, for that committee and such other duties and powers as may be incident thereto. The Growers Allocation Committee may incur only such expenses as from time to time are authorized by the Control Board.

(b) *Procedure.* The Growers Allocation Committee shall select one of its members as its chairman and such other officers as it may deem advisable. The Managing Agent shall serve as its secretary. It shall keep proper records of all of its proceedings, and shall adopt regulations governing its procedure. Each regulation, decision, determination, or other act of the Growers Allocation Committee shall be subject to the continuing right of the Secretary to disapprove of the same at any time, and, upon such disapproval, shall be deemed null and void except as to acts done in reliance thereon or in compliance therewith prior to announcement of such disapproval by the Secretary.

(c) *Alternates.* The alternate of each grower member or grower-dealer member of the Control Board shall also serve as the alternate of that member as a member of the Growers Allocation Committee, and shall have the same functions with regard to the Growers Allocation Committee as such alternate has with regard to the Control Board.*

§ 949.4 *Growers Advisory Committees*—(a) *Membership.* (1) A Growers Advisory Committee for each of the States of Oregon, California, and Washington is hereby established; and each of said committees shall consist of twelve (12) members who shall be growers or grower-dealers, or officers or employees of growers or grower-dealers, engaged in growing hops in and shall be residents of the State for which the respective committee is established.

(2) The initial members of each of said Growers Advisory Committees, to serve until March 1, 1941, and thereafter until their respective successors are selected and qualified, shall be as follows:

(i) Oregon Advisory Committee:

Name and Address

S. J. Christie, Grants Pass, Oregon.
L. S. Christofferson, Box 366, Eugene, Oregon.
William Krebs, Jefferson, Oregon.
D. P. McCarthy, Independence, Oregon.
Herman A. Kuenzi, Route 3, Silverton, Oregon.
Romeo Gouley, Salem, Oregon.
P. H. Hughes, Dallas, Oregon.
Albert Pederson, Route 2, Woodburn, Oregon.
Louis Schwabauer, Route 1, Hubbard, Oregon.
Carl J. Smith, St. Paul, Oregon.
Ferd Hartwick, Banks, Oregon.
Alec Seavey, 514 New Fleidner Building, Portland, Oregon.

(ii) California Advisory Committee:

Name and Address

P. M. Rooney, 1332 43rd Street, Sacramento, California.
Fred L. King, 2664 6th Avenue, Sacramento, California.
Mrs. Bertha Poe, 5629 "J" Street, Sacramento, California.
K. L. Lovdal, R. F. D. 3, Sacramento, California.
I. D. Wood, Brittain Lane, Santa Rosa, California.
E. H. Peterson, 600 W. College Avenue, Santa Rosa, California.
Everett Ballard, Route 1, Healdsburg, California.
R. E. Oehlmann, R. F. D., Sebastopol, California.
Warren Brown, R. F. D. 1, Ukiah, California.
J. C. Johnson, Ukiah, California.
Leslie Crawford, R. F. D. 1, Ukiah, California.
E. V. Ruddick, R. F. D. 1, Ukiah, California.

(iii) Washington Advisory Committee:

Name and Address

George Desmarais, R. F. D. 1, Moxee City, Washington.
Elzard Rabie, R. F. D. 1, Moxee City, Washington.
Bert Morrier, R. F. D. 1, Moxee City, Washington.
Hervey Riel, Route 1, Wapato, Washington.
Jos. Faucher, Route 1, Wapato, Washington.
Frank Boiselle, Brownstown, Washington.
W. H. Hill, Route 5, Yakima, Washington.
J. R. Rutherford, Route 5, Yakima, Washington.
Ed Schott, Selah, Washington.
Ben Conter, Route 2, Puyallup, Washington.
Julius Coplan, Orting, Washington.
K. I. Spooner, Route 2, Puyallup, Washington.

(3) The successors to the initial members of each Advisory Committee shall be selected on or before March 1, 1941, and shall serve thereafter so long as the provisions of this order are effective. Such selection shall be at elections held by the growers and grower-dealers in each State under the supervision of the Managing Agent or his designated representative, in which elections each grower and each grower-dealer residing in that State shall have opportunity to participate. No delay in the selection of any member shall invalidate such

selection. Said elections shall be conducted by districts, as follows:

(i) The Advisory Committee for the State of Oregon shall, subject to disapproval by the Secretary, delimit that State fairly and equitably into twelve (12) election districts. Growers and grower-dealers who produce hops in any such district shall be entitled to vote for and select for that district one (1) member of the Advisory Committee.

(ii) The Advisory Committee for the State of California shall, subject to disapproval by the Secretary, delimit that State fairly and equitably into three (3) election districts. Growers and grower-dealers who produce hops in any such district shall be entitled to vote for and select for that district four (4) members of the Advisory Committee.

(iii) The Advisory Committee for the State of Washington shall, subject to disapproval by the Secretary, delimit that State fairly and equitably into four (4) election districts. Growers and grower-dealers who produce hops in any such district shall be entitled to vote for and select for that district three (3) members of the Advisory Committee.

(4) At any such election each grower or grower-dealer present shall, on behalf of himself, his agents, partners, affiliates, subsidiaries, and representatives, cast only one (1) vote for each nominee for membership on the aforesaid Advisory Committee. No grower or grower-dealer shall vote in more than one district in any one State, and, in the event he produces hops in more than one district, he shall vote in that district in which he harvested the largest tonnage of hops during the preceding crop year. The Control Board shall prescribe and submit to the Secretary rules and regulations governing elections of Advisory Committee members, which shall become effective if not disapproved by the Secretary within twenty (20) days after submitted to him.

(5) Each member of an Advisory Committee may designate in writing addressed to the Managing Agent a grower or grower-dealer to act as his alternate at any meeting of the Advisory Committee at which that member is not present; such alternate must be a resident of the State and district thereof in which the member resides.

(6) Any vacancy in the membership of an Advisory Committee shall be filled, for the balance of the term of the member whose place is vacant, by a grower or grower-dealer, residing in the same district as that represented by the former member, selected by majority vote of the remaining members of that committee.

(7) Advisory Committee members may be reimbursed by the Control Board for all travel and other expenses necessarily incurred in the performance of their duties.

(b) *Functions.* (1) Each Advisory Committee shall promptly nominate to the Secretary a successor to any grower from that State whose term on the Control Board as a member or alternate shall expire or whose place on the Control Board for any reason may become vacant. Grower members of an Advisory Committee, as well as other growers, shall be eligible for nomination by that Advisory Committee to serve on the Control Board.

(2) Each Advisory Committee shall select from its membership a chairman and a secretary, and shall keep proper records of all of its proceedings. It shall hold meetings upon the call of four (4) members, or upon the call of its chairman, or the Control Board, or the Managing Agent. Each Advisory Committee shall serve the Control Board in an advisory capacity concerning the administration hereof in its State, and in general shall perform such functions as the Control Board from time to time may specify. Each Advisory Committee may incur only such expenses as are authorized by the Control Board.*

§ 949.5 *Limitation of total quantity to be handled*—(a) *Recommendation by Control Board.* The total quantity of hops produced during each of the years 1940 and 1941 which, during the effective period hereof, all handlers may market in or transport to any or all markets in the current of interstate or foreign commerce, or so as directly to burden, obstruct, or affect interstate or foreign commerce in hops, shall be determined and limited in the manner and to the extent hereinafter provided. As early in the respective year as the Control Board shall find to be feasible, but not prior to June 1 nor subsequent to July 15 of that year, the Control Board shall estimate the total quantity of hops which will be produced during that respective year, and shall ascertain or estimate the total carry-over of hops produced prior to the year 1940 and which, if grown in Oregon, California, or Washington, were certificated and marked, or were eligible to be certificated and marked, pursuant to the provisions of Marketing Agreement No. 78 and Order No. 28 (effective on and after August 15, 1938) regulating the handling of such hops produced in the States of Oregon, California, and Washington, and shall estimate the total consumptive demand for hops produced during that respective year. Thereafter, and based upon its aforesaid estimates and findings, the Control Board shall make and transmit to the Secretary its recommendation of the maximum quantity, expressed in pounds dry weight, of hops produced during that respective year which should, during the effective period hereof, in order to effectuate the declared policy of the act, be marketed or transported to market in the current of interstate or foreign commerce, or so as directly to burden, obstruct, or affect interstate or foreign commerce, in hops, and, with such recommendation, shall transmit to the Secretary its aforesaid estimates and findings on which its aforesaid recommendation is based.

(b) *Determination of salable quantity.* For the purpose of obtaining additional information pertinent to a determination of the maximum quantity of hops of that year's production which should be handled, the Secretary shall hold a meeting or meetings, within the production area covered hereby, after such notice as the Secretary shall deem proper. Thereafter, on the basis of the aforesaid estimates, data, and recommendations of the Control Board, and such other pertinent information as the Secretary may have, the Secretary shall determine, fix, and announce such maximum quantity of hops produced during that respective year which, during the effective period hereof, may be marketed in or transported to any and all markets in the current of interstate or foreign commerce, or so as directly to burden, obstruct, or affect interstate or foreign commerce, in hops, as the Secretary may find to be proper in order to effectuate the declared policy of the act: *Provided,* That nothing contained in this paragraph shall prevent the handling of hops pursuant to the provisions of § 949.6 (e) or § 949.6 (g) hereof. Such maximum quantity of 1940 and 1941 crop hops, respectively, which shall be fixed by the Secretary as aforesaid shall be known, and is referred to hereinafter, as the "salable quantity" of that respective crop of hops.

(c) *Increase of salable quantity.* The Secretary may at any time increase the salable quantity for any year, but the Secretary may not decrease said salable quantity.*

§ 949.6 *Allocation of the salable quantity*—(a) *Determination of quantity available for sale.* (1) As the basis for apportioning equitably among the growers the salable quantity of each year's crop, the Growers Allocation Committee each year, as soon after the beginning of the harvest of that year's hop crop as the Growers Allocation Committee shall find to be feasible, shall determine, or cause to be determined under its supervision, the quantity of hops produced by each grower, except as provided in § 949.6 (a) (2), during that year (which quantity shall be deemed to be the quantity available for sale by that grower). In determining as aforesaid the quantity produced by each grower, there shall be included hops of that respective year's crop grown to maturity and remaining unharvested on the growing vine (regardless of quality), and hops which have been harvested, but all determinations of quantity shall be expressed in pounds, on a net dry-weight basis. The Growers Allocation Committee thereafter shall compute the total quantity of hops produced by all growers during that respective year (which quantity shall be deemed to be the quantity available for sale by all growers).

(2) The investigation and determination of the quantity of hops produced by each member or alternate member of the Growers Allocation Committee shall

not be made by any member or alternate member of such committee, but shall be made, and reported to the Secretary and the Growers Allocation Committee in writing, by such person or persons as the Managing Agent shall designate for that purpose. Any protest by a member or alternate of the Growers Allocation Committee concerning the quantity of hops thus found to have been produced by him shall be made directly to and be determined by the Secretary rather than the Growers Allocation Committee.

(3) The Growers Allocation Committee shall cause to be mailed to each grower notice of the determination as aforesaid of the quantity of hops produced by that grower during that year and, also, the aforesaid computation of the total quantity of hops produced by all growers during that year. It shall also publicly announce the aforesaid computation of the total quantity of hops produced by all growers during that year.

(4) The Growers Allocation Committee shall prescribe regulations, subject to modification and approval by the Secretary, which provide a reasonable means whereby any grower who may be dissatisfied with such determination of his production of hops may protest to that committee or its representative concerning that determination. In the event of such protest the determination of the quantity produced by that grower shall be reconsidered by the Growers Allocation Committee and revised to any such extent as the committee shall find to be proper. Such regulations shall further provide a reasonable means whereby such grower may appeal to the Secretary from the Growers Allocation Committee's final decision on his protest. The Secretary's decision on such appeal shall be conclusive.

(5) Upon expiration of such time for protest as may be specified pursuant to § 949.6 (a) (4) hereof, and after completion of action by that committee upon all protests, the Growers Allocation Committee shall report to the Secretary all findings, determinations, and computations made by or for that committee pursuant to this paragraph (a), together with the data on which the same were based. On the basis of such findings, determinations, computations, data, and other pertinent information which the Secretary may have, the Secretary shall determine and notify the Growers Allocation Committee of (i) the total quantity of hops produced as aforesaid during that year by each grower, and (ii) the total quantity of hops produced as aforesaid during that year by all growers. Immediately upon receipt of such notice from the Secretary, the Growers Allocation Committee shall publicly announce the aforesaid determination of the total quantity of hops produced during that year by all growers.

(b) *Allocation among growers.* The "salable percentage" of the total quantity of hops produced during the respective year by all growers, determined and announced by the Secretary as aforesaid, shall be computed by dividing the salable quantity of that year's crop, as fixed pursuant to § 949.5 (b) hereof, by the aforesaid total quantity of hops produced by all growers during that year. Each grower's allotment of the salable quantity of that year's crop shall be that same salable percentage applied to that grower's production of hops during that year as determined pursuant to § 949.6 (a) hereof: *Provided,* That a grower's allotment shall be based upon the quantity of hops grown and harvested and packaged by that grower, if that grower so elects as provided in § 949.6 (c) hereof. Such allotments shall be expressed in pounds, dry weight, and shall be known as the respective grower's "salable allotment" of that respective year's crop. The Growers Allocation Committee shall mail to each grower notice of his salable allotment computed by that committee as herein provided. A list of the salable allotments of all growers for each year's crop shall be compiled and maintained by the Growers Allocation Committee at its office in each of the States of Oregon, California, and Washington, where the same shall be available during all reasonable hours for inspection by any interested person.

(c) *Election to base allotment on quantity harvested.* The Growers Allocation Committee shall notify each grower of his salable allotment computed by that committee as hereinbefore provided. Within ten (10) days after the date of mailing to a grower, as provided hereinabove, of his notice of salable allotment, the respective grower may elect, in writing delivered to the Growers Allocation Committee, to have his salable allotment determined on the basis of the quantity of hops actually harvested and packaged by him during that year. In the event of such election, such grower's salable allotment of the salable quantity applicable to hops produced during the respective year shall be computed by applying the salable percentage to the quantity of hops which the committee shall determine are produced, harvested, and packaged by such grower during the respective year.

(d) *Allotment certificates.* (1) The Control Board each year shall issue or cause to be issued a certificate or certificates as evidence of each grower's salable allotment for that year's crop. Each such certificate shall be known as an "allotment certificate", and shall indicate the year of production and the quantity of hops covered thereby and shall be in such form as the Control Board shall prescribe, subject to approval by the Secretary. The Control Board shall cause to be maintained adequate and complete record of each such certificate issued and all pertinent facts relative thereto.

(2) Either the original or a copy of each allotment certificate issued pursuant hereto shall be delivered to the grower of the hops to which the certificate is applicable. No such certificate shall be accepted, used, disposed of, or transferred in any manner by any handler except in connection with the particular hops to which the same shall relate.

(3) In the event that, after issuance of an allotment certificate to a particular grower, the Managing Agent shall find that the title to or operation of the hop yard, or any portion thereof, to which the certificate relates has been transferred, prior to the completion of the growing of the crop of hops thus transferred, to another person who thereafter will constitute the grower of the hops produced on that yard, or portion thereof, during that year, the Managing Agent, upon (i) written application signed by both the grower to whom the allotment certificate has been issued and the grower who has taken over the operation of that yard, or portion thereof, which application shall state what proportion of the production of that hop yard has been so transferred, and (ii) surrender, to the Managing Agent, of the previously issued allotment certificate, shall cancel said previously issued allotment certificate and issue in lieu thereof a new certificate in the name of such new grower, or if the transfer to such new grower is of only a portion of that yard to which said previously issued certificate relates, the Managing Agent shall issue to each of said growers a new certificate covering that grower's respective proportion of the quantity represented by the previously issued certificate. Thereafter the salable allotment of each of said growers shall be such quantity as shall be specified in the new certificate thus issued thereto.

(4) In the event that more than one grower shall participate jointly in the production of hops, whether as landlord and tenant, as partners, or otherwise, and said growers shall report that fact to the Managing Agent on forms which shall be prescribed and supplied for that purpose by the Growers Allocation Committee, then a single allotment and allotment certificate covering such joint production shall accrue and be issued to said joint growers. In the event that thereafter the said interests of those growers in the crop produced or being produced, and covered by said allotment certificate, are segregated, the Managing Agent, upon written application signed by all of the interested growers to whom the original allotment certificate was issued, and surrender for cancellation of the previously issued certificate, shall segregate and distribute said single salable allotment among said growers in accordance with their respective segregated interests in the crop covered thereby as shown by their aforesaid application, and shall issue such separate allotment certificates as may be necessary to represent said segregated allotments.

(5) On satisfactory proof that any certificate issued pursuant to this section has been lost or destroyed, the Control Board shall issue, or cause to be issued, a new certificate in lieu thereof; and, in such event, the lost certificate shall become null and void, except as to a bona fide purchaser of the hops covered by such certificate, and any handler, except as a bona fide purchaser of the hops covered by such certificate, who may obtain possession of such null and void certificate shall, upon request by the Control Board, immediately surrender such certificate to the Control Board.

(e) *Preliminary allotment certificates.* The Control Board each year shall issue or cause to be issued, prior to the issuance of allotment certificates applicable to that year's crop, to any grower who may apply therefor to the Managing Agent, preliminary allotment certificates representing such proportion of that grower's total production during that year as the Managing Agent shall determine clearly will not be in excess of sixty (60) percent of that grower's probable production of hops during that year. Such certificates shall be issued pursuant and subject to uniform regulations to be prescribed by the Control Board, subject to approval by the Secretary; and such regulations shall provide, among other things, for the surrender or cancellation of such preliminary allotment certificates upon the issuance of the allotment certificates pursuant to § 949.6 (d) hereof. After issuance to a grower of such a preliminary allotment certificate, the hops covered thereby shall be eligible for certification, marking, and handling, as though the final allotment certificate applicable to those hops had been issued, and subject to the same terms, conditions, and regulations as are applicable to such certification, marking, and handling of hops under a final allotment certificate.

(f) *Limiting of handling to certificated hops.* (1) No person, as principal, agent, broker, legal representative, or otherwise, shall handle any hops unless there shall have been issued pursuant to this section an allotment certificate or allotment certificates, or preliminary allotment certificates, covering or applicable to all of those hops, or if the hops were produced prior to the year 1940, an allotment certificate or certificates issued pursuant to Marketing Agreement No. 78 and Order No. 28 regulating the handling of hops grown in said States; and, furthermore, unless each bale or other container of said hops shall have been marked or tagged in such manner as the Control Board (or if hops produced prior to 1940, then the Control Board established under said previous marketing agreement and order), by regulations approved by the Secretary, may have prescribed for the purpose of identifying such hops as being covered by a duly issued salable allotment, and unless that handler shall first comply with any such regulations of the Control Board as may have been approved by the Secretary relative to the certificates covering said hops or the identification or marking of said hops.

(2) In the event any 1940 or 1941 crop hops, while remaining unmarketed in the control of the respective grower thereof, are destroyed, or are so damaged or deteriorated as in the judgment of the grower to be unmarketable, or if because of quality or type the hops are unsatisfactory to the grower, the grower thereof may replace such hops within the limits of his salable allotment for that respective year by purchasing or acquiring uncertificated hops of that year's crop from the growers thereof: *Provided*, That such purchasing grower first submits a written statement to the Managing Agent setting forth the quantity of hops which such grower desires so to replace, and the name and address of each grower from whom he proposes to acquire uncertificated hops for that purpose, and makes proper arrangements with the Managing Agent whereby the unmarketable or unsatisfactory hops, which are thus to be replaced, will be effectively diverted from or disposed of out of the normal channels of trade, and such disposal or diversion shall be in such manner as may be prescribed by uniform regulation of the Control Board approved by the Secretary. Any grower duly acquiring uncertificated hops in accordance with the foregoing shall be entitled to have such hops certificated and to handle such hops under his own salable allotment. The Managing Agent shall prepare, and from time to time shall revise, a list of growers (and their respective addresses) known to have uncertificated hops for sale pursuant to the provisions of this paragraph; and the Managing Agent shall prepare, and from time to time shall revise, a list of growers (and their respective addresses) who report that they desire to purchase or acquire uncertificated hops pursuant to this paragraph. The Managing Agent shall make such lists available at each office of the Control Board in Oregon, California, and Washington to any grower of hops.

(g) *Revision of allotments.* (1) In the event the Growers Allocation Committee shall at any time find that no determination of production has been made as to a particular grower entitled thereto pursuant to the provisions of this order, or that a previous determination of production of a grower was substantially in error, the committee shall determine or cause to be determined the quantity of hops actually produced by the respective grower during the respective year; and thereupon the committee shall report such determination to the Secretary and shall also notify the grower regarding such determination. The grower may protest such determination, and appeal to the Secretary from the committee's decision on such protest; and such protest and appeal shall be in accordance with the provisions of this section regarding protests and appeals by growers. The Secretary shall determine, and notify the Growers Allocation Committee of, the quantity of hops actually produced by the respective grower during such year; and the salable allotment for the respective grower shall be computed and issued in accordance with the provisions of this section relative to the computation of salable allotments and the issuance of certificates to growers.

(2) In the event the Growers Allocation Committee or the Managing Agent shall at any time find that the salable allotment previously issued to a grower was erroneously or incorrectly computed or is erroneous by reason of mathematical or clerical error, the Growers Allocation Committee or the Managing Agent shall correct and revise said allotment to the extent found to be proper, and shall notify the respective grower of such correction, and shall also notify the Secretary regarding such correction.

(3) Whenever there is mailed to a grower the notice of correction by the committee or the Managing Agent of the determination of production or the salable allotment of that grower, as hereinbefore provided in this paragraph regarding the revision of allotments, any previously issued salable allotment of that grower for the respective crop year shall automatically be suspended to the extent that it may exceed the allotment as thus corrected, and to the extent that hops shall not already have been certificated and handled under the previous allotment. Any corrected salable allotment or corrected allotment certificate issued pursuant to this paragraph regarding the revision of allotments shall supersede whatever salable allotment or allotment certificate previously may have been issued to the respective grower with regard to the crop of hops produced during that year.*

§ 949.7 *Expenses and assessments*—(a) *Expenses.* The Control Board is authorized to incur such expenses as the Secretary from time to time may find may be necessary to perform the functions of the Control Board, the Growers Allocation Committee, and the Advisory Committees hereunder. The funds to cover such expenses shall be acquired by the levying of assessments as provided in § 949.7 (b) hereof.

(b) *Assessments.* Each handler of 1940 or 1941 crop hops, who is the first handler thereof, shall pay to the Control Board the assessment provided hereinafter with respect to all hops which are handled by that handler as the first handler thereof: *Provided, however*, That any grower who markets or transports to market within the State of production hops produced by that grower shall not be deemed to be the first handler of those hops insofar as the provisions of this paragraph may be concerned. Each handler of 1938 or 1939 crop hops on which the assessment was not paid pursuant to Marketing Agreement No. 78 and Order No. 28 shall, if the respective

handler of such hops is the first handler thereof subsequent to the termination of said Marketing Agreement No. 78 and Order No. 28, pay to the Control Board established pursuant to this order the assessment provided hereinafter with respect to all hops which are handled by any handler as the first handler thereof: *Provided, however*, That any grower who markets or transports to market within the State of production hops produced by that grower shall not be deemed to be the first handler of those hops insofar as the provisions of this paragraph may be concerned. Beginning with the effective date hereof the assessment rate shall be three-tenths (3/10) of one (1) cent per pound, and said rate shall continue in effect until changed by the Control Board with the approval of the Secretary: *Provided, however*, That the Secretary shall not approve any assessment rate exceeding two-fifths (2/5) of one (1) cent per pound unless he shall have held, prior thereto and subsequent to such notice as he may deem proper, a meeting or meetings within the production area covered hereby for the specific purpose of obtaining information with respect to such assessment rate. The Secretary shall reduce the assessment rate if the Secretary finds that the assessment rate when thus reduced will provide an amount of money sufficient to enable the Control Board and other committees to perform their respective functions under this order. Any change in the assessment rate shall not apply retroactively. A grower who pursuant to § 949.6 (f) (2) of this order purchases or otherwise acquires uncertificated hops from the grower thereof shall not, by reason of such purchases or acquisition, or the marketing or transportation of said hops within the State of production, be deemed to be the first handler of those hops within the provisions of this section. In the event any grower who handles hops is not covered by this section as the first handler of said hops, then the person who handles said hops next following such handling thereof by said grower shall constitute the first handler of said hops within the provisions of this section.

(c) *Liquidation of net assets.* Upon the termination hereof the net assets of the Control Board shall be liquidated and disbursed pursuant to § 949.13 hereof.

(d) *Funds to be used to pay expenses.* From the funds acquired pursuant to this section, the Control Board shall pay the salaries of its employees and the expenses necessarily incurred in the performance of the functions or duties or exercise of the powers of the Control Board, Growers Allocation Committee, and Advisory Committees.*

§ 949.8 *Compliance.* Each handler shall comply strictly with all provisions hereof and all regulations duly effective hereunder. No handler shall handle any hops in violation of any of the provisions hereof or in violation of any such regulations.*

§ 949.9 *Reports, books, and records.* (a) *Books and records.* Each handler and each subsidiary or affiliate thereof shall keep adequate books and records which will clearly show the details of its handling of hops.

(b) *Reports to Managing Agent.* To enable the Control Board, the Growers Allocation Committee, or any Advisory Committee to perform its functions hereunder, each handler shall furnish to the Managing Agent, in such form and at such times and substantiated in such manner as shall be prescribed by the Control Board, complete information relating to (1) the volume of hops handled by the respective handler, (2) the names and addresses of the growers and other persons from whom hops were purchased or acquired, (3) quantities of hops grown by that handler, and (4) the total quantity of hops owned by the respective handler. Such information furnished to the Managing Agent shall be confidential and shall not be disclosed to any person (including members of the Control Board as well as other persons) except to the Secretary at his request, and except that the Managing Agent may compile such information in such form as will not reveal the identity of individual informants and may make such compilations available to the Control Board, Growers Allocation Committee or any Advisory Committee, or to the public. Disclosures by the Managing Agent of any information acquired under this section, except as herein expressly authorized, shall be cause for his removal from office by the Secretary.*

§ 949.10 *Amendments.* Amendments hereto may be proposed, from time to time, by the Control Board or by the Secretary.*

§ 949.11 *Agents.* The Secretary may, by a designation in writing, name any person, including but not being limited to any officer or employee of the Government or any bureau or division in the Department of Agriculture, to act as his agent or representative in connection with any of the provisions of this order.*

§ 949.12 *Effective time and termination*—(a) *Effective time.* The provisions of this order shall become effective at such time as the Secretary may declare above his signature attached hereto, and shall continue in force so long as the provisions of the act authorizing it are in effect, unless terminated in one of the ways hereinafter specified.

(b) *Termination.* (1) The Secretary may at any time terminate the provisions of this order in such manner and by giving such notice as the Secretary may determine.

(2) The Secretary shall terminate this order whenever he finds that such termination is favored by the majority of the growers of hops who, during the preceding crop year, have been engaged in the States of Oregon, California, or Washington in the production of hops for market: *Provided*, That such majority have, during such period, produced for market more than fifty (50) percent of the total volume of hops produced for market in said States during such period. Such termination shall become and be effective on and after the first day of July subsequent to the announcement thereof by the Secretary.

(3) The provisions hereof shall terminate in any event whenever the provisions of the act authorizing them cease to be in effect.

(c) *Proceedings after termination.* Upon the termination of this order, the members of the Control Board then functioning shall continue as trustees, for the purpose of liquidating the affairs of said board, of all funds and property then in the possession or under the control of the Control Board, including but not being limited to claims for any funds unpaid or property not delivered at the time of such termination; but the procedural rules governing the activities of said trustees, including but not being limited to the determination as to whether action shall be taken by a majority vote of the trustees, shall be prescribed by the Secretary. Said trustees shall continue in such capacity until discharged by the Secretary, and shall from time to time account for all receipts and disbursements, and deliver all funds and property on hand, together with all books and records of the Control Board and the trustees, to such person as the Secretary may direct, and shall, upon the request of the Secretary, execute such assignments or other instruments necessary or appropriate to vest in such person full title to all of the funds or claims vested in the Control Board or the trustees pursuant hereto. Any funds collected for expenses pursuant to § 949.7 of this order and held by such trustees or such person over and above amounts necessary to meet outstanding obligations and the expenses necessarily incurred by the trustees or such other person, in the performance of their duties hereunder, shall, as soon as practicable after the termination of this order, be disbursed among those handlers who have paid their assessments in full, pursuant to the provisions of this order, pro rata in proportion to their contributions pursuant hereto. Any person to whom funds, property, or claims have been delivered by the Control Board or its members upon direction of the Secretary as herein provided shall be subject to the same obligations and duties with respect to said funds, property, or claims as are hereinabove imposed upon the members of said board or upon said trustees.*

§ 949.13 *Duration of immunities.* The benefits, privileges, and immunities conferred by virtue hereof shall cease upon the termination hereof except with re-

spect to acts done under and during the existence of this order.*

§ 949.14 *Separability.* If any provision of this order is declared invalid or the applicability thereof to any person, circumstance, or thing is held invalid, the validity of the remainder of this order or the applicability thereof to any other person, circumstance, or thing shall not be affected thereby.*

§ 949.15 *Derogation.* Nothing contained in this order is, or shall be construed to be, in derogation or in modification of the rights of the Secretary or of the United States to exercise any powers granted by the act or otherwise, or, in accordance with such powers, to act in the premises whenever such action is deemed advisable.*

§ 949.16 *Liability of Control Board members.* No member of the Control Board, Growers Allocation Committee, or any Advisory Committee, nor any employee thereof, shall be held liable individually in any way whatsoever to any other person for errors in judgment, mistakes, or other acts either of commission or omission as such member or employee, except for acts of dishonesty. The liability of the parties hereunder is several and not joint, and no parties shall be liable for the default of any other party.*

In witness whereof, the undersigned, acting under the provisions of Public Act No. 10, 73d Congress, as amended and as reenacted and amended by the Agricultural Marketing Agreement Act of 1937, as amended, for the purposes and within the limitations therein contained and not otherwise, does hereby execute and issue in duplicate this order under his hand and the official seal of the United States Department of Agriculture, in the city of Washington, District of Columbia, on this 1st day of August 1940, and declares this order to be effective on and after 12:01 a. m., P. s. t., August 5, 1940.

[SEAL] H. A. WALLACE,
Secretary of Agriculture.

[F. R. Doc. 40-3190; Filed, August 1, 1940; 2:52 p. m.]

TITLE 14—CIVIL AVIATION

CHAPTER I—CIVIL AERONAUTICS AUTHORITY

[Amendment 65, Civil Air Regulations]

RENEWAL AND SPECIAL ISSUANCE OF CERTIFICATES

At a session of the Civil Aeronautics Board of the Civil Aeronautics Authority held at its office in Washington, D. C., on the 30th day of July, 1940.

Acting pursuant to the authority vested in it by the Civil Aeronautics Act of 1938, as amended, particularly sections 205 (a), 601, and 602 of said Act, and finding that its action is desirable in the public interest and is necessary to carry out the provisions of, and to exercise and perform its powers and duties under, said Act, the Civil Aeronautics Board amends the Civil Air Regulations as follows:

1. Section 20.34 (a) is amended to read as follows:

(a) *Student pilot.* (1) No solo flight time is required, but if the certificate presented for endorsement authorizes the holder to fly solo or solo cross-country, the certificate shall not be endorsed unless the holder presents with his application for endorsement a written statement, made within 60 days preceding application, by a certificated flight instructor that the holder is competent to fly solo or solo cross-country, as the case may be.

(2) A physical examination identical with that required for the issuance of the student pilot certificate within the 14 months preceding the expiration of the endorsement period.

2. Section 20.34 (b) is amended to read as follows:

(b) *Solo pilot.* (1) Fifteen hours of solo flight time within the endorsement period in aircraft of each type for which endorsement is sought, and if endorsement is sought for more than one aircraft weight and engine classification, 5 hours of solo flight time shall have been logged in aircraft of each such weight and engine classification.

(2) A physical examination identical with that required for the issuance of a solo pilot certificate within the 14 months preceding the expiration of the endorsement period.

3. Section 20.35 is amended to read as follows:

§ 20.35 *Effect of expired certificates; special issuance.* (a) The holder of a pilot certificate of private grade or higher, which has expired because of failure to secure the necessary flight time, may, upon application to any inspector, have the expired certificate endorsed as conveying the privileges of a student pilot certificate until one year from the date of original expiration. After such endorsement, the holder may exercise all the privileges incident to a student pilot certificate which has been endorsed to permit solo cross-country flight, and may operate aircraft of the type, weight, and engine classifications specified in the rating record attached to his expired certificate.

(b) The holder of such an expired pilot certificate, if application is made within the year following its expiration, may secure a new private pilot certificate with the type, weight, and engine ratings previously held by showing that, as of the date of application, he has met the requirements (as set forth in § 20.34 (c)) for periodic endorsement of a private pilot certificate with such ratings.

(c) The holder of an expired limited-commercial or commercial pilot certificate may secure a new certificate of the same grade, and with the ratings previously held

(1) If application is made within 90 days after the expiration of his certificate, by showing that, as of the date of application, he has met the requirements (as set forth in § 20.34 (d) or (e)) for periodic endorsement of the certificate with such ratings;

(2) If application is made within one year after the expiration of his certificate, by meeting the requirements specified in paragraph (1) and, in addition, passing the flight test prescribed for such a certificate and ratings.

4. Section 20.37 is amended to read as follows:

§ 20.37 *Operation during physical deficiency.* A certificated pilot shall not operate any aircraft during the period of any known physical deficiency which would render him during that period unable to meet the physical requirements with which he complied in order to secure his certificate: *Provided, however,* That the holder of at least a private pilot certificate may operate an aircraft otherwise than for hire during the period of a temporary physical deficiency if the aircraft is equipped with fully functioning dual controls and the other control seat is occupied by another pilot who holds at least a private pilot certificate. The time during which the aircraft is so operated may be included in the time necessary for renewal of the certificate of the pilot having the temporary physical deficiency.

5. Section 20.38 is amended to read as follows:

§ 20.38 *Surrender.* Except as provided in § 20.35, a holder of a pilot certificate shall, upon request, surrender such certificate to any officer or employee of the Administrator if it has been suspended or revoked, or expired.

These amendments shall become effective on September 1, 1940.

By the Civil Aeronautics Board.

[SEAL] THOMAS G. EARLY,
Acting Secretary.

[F. R. Doc. 40-3194; Filed, August 2, 1940; 9:39 a. m.]

[Amendment 66, Civil Air Regulations]

CERTIFICATION OF MECHANICS SCHOOLS

At a session of the Civil Aeronautics Board of the Civil Aeronautics Authority held at its office in Washington, D. C., on the 31st day of July 1940.

Acting pursuant to the authority vested in it by the Civil Aeronautics Act of 1938, as amended, particularly sections 205 (a), 601, and 607 of said Act, and finding that its action is desirable in the public interest and is necessary to carry out the provisions of, and to exercise and perform its powers and duties under, said Act, the Civil Aeronautics Board amends the Civil Air Regulations as follows:

Effective August 1, 1940, Part 53 of the Civil Air Regulations is amended

(1) By striking out the word "Authority" wherever it appears therein except in the last line of § 53.32 and inserting in lieu thereof the word "Administrator"; and

(2) By striking out the word "Authority" in the last line of § 53.32 and inserting in lieu thereof the word "Board".

By the Civil Aeronautics Board.

[SEAL] THOMAS G. EARLY,
Acting Secretary.

[F. R. Doc. 40-3195; Filed, August 2, 1940; 9:39 a. m.]

TITLE 16—COMMERCIAL PRACTICES

CHAPTER I—FEDERAL TRADE COMMISSION

[Docket No. 3344]

IN THE MATTER OF ATLANTIC COMMISSION COMPANY

§ 3.45 (e) (1) *Discriminating in price—Indirect discrimination—Brokerage payments:* § 3.45 (e) (3) *Discriminating in price—Indirect discrimination—Discounts and allowances.* In purchasing commodities in interstate commerce and District of Columbia, and on the part of respondent Atlantic Commission Co. [wholly owned subsidiary of a corporation engaged, through other wholly owned subsidiaries, in the retail grocery business and in owning and operating several thousand retail grocery stores in thirty-eight states and in the District of Columbia], and on the part of its officers, etc., (1) making purchases of commodities for the respondent's own account at a so-called net price or on a so-called net basis, and at any other price and on any other basis, which reflects a deduction or reduction, or is arrived at or computed by deducting or subtracting, from the prices at which sellers are selling commodities to other purchasers thereof, any amount representing or reflecting, in whole or in part, brokerage currently being paid by sellers to their brokers on sales of commodities made for said sellers by, or by said sellers through, their said brokers, and (2) accepting from sellers on purchases of commodities made for the respondent's own account any so-called quantity discounts and payments of all kinds representing or reflecting, in whole or in part, brokerage currently being paid by sellers to their brokers on sales of commodities made for said sellers by, or by said sellers through, their said brokers, prohibited. (Sec. 2 (c), 49 Stat. 1527; 15 U.S.C., Supp. IV, sec. 13 (c)) [Cease and desist order, Atlantic Commission Company, Docket 3344, July 24, 1940]

§ 3.45 (e) (1) *Discriminating in price—Indirect discrimination—Brokerage payments.* In purchasing commodities in interstate commerce and District of Columbia, and on the part of respondent Atlantic Commission Co. [wholly owned subsidiary of a corporation engaged, through other wholly owned subsidiaries, in the retail grocery business and in owning and operating several thousand retail grocery stores in thirty-eight states and in the District of Columbia], and on the part of its officers, etc., accepting from sellers (1) directly or indirectly on purchases of commodities made for the respondent's own account any brokerage and any allowances and discounts in lieu of brokerage, in whatever manner or form said allowances and discounts may be offered, allowed, granted, paid or transmitted, and (2) in any manner or form whatever, directly or indirectly, anything of value as a commission, brokerage, or other compensation or any allowance or discount in lieu thereof upon purchases of commodities made for respondent's own account, prohibited. (Sec. 2 (c), 49 Stat. 1527; 15 U.S.C., Supp. IV, sec. 13 (c)) [Cease and desist order, Atlantic Commission Company, Docket 3344, July 24, 1940]

ORDER TO CEASE AND DESIST

At a regular session of the Federal Trade Commission, held at its office in the City of Washington, D. C., on the 24th day of July, A. D. 1940.

This proceeding having been heard by the Federal Trade Commission upon the complaint[1] of the Commission, the answer of the respondent, Atlantic Commission Company, and a stipulation as to the facts executed by the Executive Vice-President and General Manager and by the General Counsel of the said respondent and by W. T. Kelley, Chief Counsel for the Federal Trade Commission, which said stipulation waived the taking of testimony, presentation of argument and filing of briefs and provided that without further intervening procedure the Commission may make and enter in this proceeding its report stating its findings as to the facts and conclusion based thereon and its order disposing of this proceeding, and said stipulation having been approved by the Commission, and the Commission having made its findings as to the facts and its conclusion that the respondent violated the provisions of section 2 (c) of the Clayton Act, as amended by the Robinson-Patman Act (15 U.S.C. Sec. 13 (c));

It is ordered, That in purchasing commodities in interstate commerce and the District of Columbia the respondent, Atlantic Commission Company, its officers, representatives, agents and employees, do forthwith cease and desist from:

(1) Making purchases of commodities for the respondent's own account at a so-called net price or on a so-called net basis, and at any other price and on any other basis, which reflects a deduction or reduction, or is arrived at or computed by deducting or subtracting, from the prices at which sellers are selling commodities to other purchasers thereof any amount representing or reflecting, in whole or in part, brokerage currently being paid by sellers to their brokers on sales of commodities made for said sellers by, or by said sellers through, their said brokers; and

(2) Accepting from sellers on purchases of commodities made for the respondent's own account any so-called quantity discounts and payments of all kinds representing or reflecting, in whole or in part, brokerage currently being paid by sellers to their brokers on sales of commodities made for said sellers by, or by said sellers through, their said brokers; and

(3) Accepting from sellers directly or indirectly on purchases of commodities made for the respondent's own account any brokerage and any allowances and discounts in lieu of brokerage, in whatever manner or form said allowances and discounts may be offered, allowed, granted, paid or transmitted; and

(4) Accepting from sellers in any manner or form whatever, directly or indirectly, anything of value as a commission, brokerage, or other compensation or any allowance or discount in lieu thereof upon purchases of commodities made for respondent's own account.

It is further ordered, That the respondent shall, within sixty (60) days after service upon it of this order, file with the Federal Trade Commission a report in writing, setting forth in detail the manner and form in which it has complied with this order.

By the Commission.

[SEAL] OTIS B. JOHNSON,
Secretary.

[F. R. Doc. 40-3207; Filed, August 2, 1940; 11:59 a. m.]

[1] 3 F.R. 611.

TITLE 24—HOUSING CREDIT

CHAPTER IV—HOME OWNERS' LOAN CORPORATION

PART 402—LOAN SERVICE

EXTENSION OF TIME FOR MAKING PAYMENTS

The first paragraph of § 402.13 is amended to read as follows:

§ 402.13 *Extension of time for making payments.* Where the circumstances of the home owner, condition of the security and the best interests of the Corporation justify it, the General Manager with the advice of the General Counsel may grant extensions of time for the payment of any amount, including principal, interest and advances, or the unpaid balance of the account, and change the payment plan contained in the loan or sales instruments whether the account is delinquent or not, and in connection with any such transactions may (a) accept an extension or other agreement or new obligation and security instrument, and execute any such instruments, or cause the same to be executed by a duly authorized officer of the Corporation, and (b) make ad-

vances for the payment of taxes, assessments, ground rents or other levies or charges which are payable: *Provided, however*, That in no case shall the term of repayment exceed twenty-five years from the date of the original loan or twenty years from the date of the sales instrument: *And provided further*, That the home owner, in connection with the granting of an extension, execute an agreement with the Corporation for a Tax and Insurance account in accordance with and subject to the provisions of § 402.14.

(Effective date August 1, 1940)
(Secs. 4 (a), 4 (k) of Home Owners' Loan Act of 1933, 48 Stat. 129, 132 as amended by Section 13 of the Act of April 27, 1934, 48 Stat. 647: 12 U.S.C. 1463 (a), (k)).

[SEAL] H. CAULSEN,
Assistant Secretary.

JULY 23, 1940.

[F. R. Doc. 40-3183; Filed, August 1, 1940; 2:46 p. m.]

[Administrative Order No. 2-271]

PART 402—LOAN SERVICE

EXTENSIONS, TAX AND INSURANCE ACCOUNT REQUIRED

The second paragraph of § 402.13-2 is amended to read as follows:

It is required in all cases where an extension is granted that the home owner in connection therewith agrees to accumulate with the Corporation in addition to his regular payments, funds to provide for a Tax and Insurance account in conformity with and subject to the provisions of §§ 402.14 through 402.14-8.

The second paragraph of § 402.13-9 is deleted.

(Effective date August 1, 1940)
(Above procedure promulgated by General Manager and General Counsel pursuant to authority vested in them by the Federal Home Loan Bank Board acting pursuant to secs. 4 (a), 4 (k) of Home Owners' Loan Act of 1933, 48 Stat. 129, 132, as amended by section 13 of the Act of April 27, 1934, 48 Stat. 647: 12 U.S.C. 1463 (a), (k)).

[SEAL] H. CAULSEN,
Assistant Secretary.

[F. R. Doc. 40-3185; Filed, August 1, 1940; 2:48 p. m.]

PART 402—LOAN SERVICE

TAX AND INSURANCE ACCOUNT

Section 402.14 is amended to read as follows:

§ 402.14 *Tax and insurance account.* In cases where the establishment of a Tax and Insurance account is a requirement of the Corporation, and in other cases where home owners have requested the establishment of such account, arrangements may be made with home owners on an approved form for a Tax and Insurance account for the accumulation of funds for the payment of the following items or for such of them as the Corporation may in its sole discretion and from time to time desire to pay:

(a) Any taxes, assessments and ground rents which, in the judgment of the Corporation, may affect the property which secures payment of any indebtedness owing to the Corporation or which may affect such indebtedness or the instruments evidencing or securing it;

(b) The premiums and costs of such fire or other insurance as the Corporation may from time to time require; and

(c) Such other levies, charges or items as the Corporation in its sole discretion may deem it necessary or proper to pay.

The General Manager may waive any requirement of the Corporation providing for the establishment of a Tax and Insurance account, or may suspend the accrual for any or all of the above items in the Tax and Insurance account in any case or class of cases when he determines it to be in the best interests of the Corporation.

The authority by this Section vested in the General Manager may also be exercised by the Regional Manager under procedure and limitations prescribed by the General Manager and the General Counsel.

(Effective date August 1, 1940, except that as to Tax and Insurance accounts in connection with sales of the Corporation's properties, this resolution shall not be effective until the effective date of amendments to § 403.10 and sections thereunder covering that subject matter.)
(Secs. 4 (a), 4 (k) of Home Owners' Loan Act of 1933, 48 Stat. 129, 132 as amended by Section 13 of the Act of April 27, 1934, 48 Stat. 647: 12 U.S.C. 1463 (a), (k)).

[SEAL] H. CAULSEN,
Assistant Secretary.

JULY 23, 1940.

[F. R. Doc. 40-3184; Filed, August 1, 1940; 2:48 p. m.]

[Administrative Order No. 2-272]

PART 402—LOAN SERVICE

TAX AND INSURANCE ACCOUNTS REQUIRED; WAIVER OF TAX AND INSURANCE ACCOUNTS; SUSPENSION OF TAX AND INSURANCE ACCRUAL; SUSPENSION AND REESTABLISHMENT OF INSURANCE ACCRUALS; CHANGE IN STATUS OF THE MORTGAGED PROPERTY AFFECTING ACCOUNT

Sections 402.14-1, 402.14-2, and 402.14-4 are revoked, and the following §§ 402.14-1, 402.14-2, 402.14-3, 402.14-6, and 402.14-8 are adopted.

§ 402.14-1 *Tax and insurance accounts required.* The establishment of a Tax and Insurance Account is mandatory in certain instances as indicated in other parts of the Regulations. The Regional Manager may also require the establishment of a Tax and Insurance account in connection with the granting of partial releases, subordinations, waivers, substitutions of security, or consents for removal, improvements, alterations, transfers of title, or in other cases involving similar requests by the home owners. Arrangements for a Tax and Insurance account may also be made available to home owners desiring such facilities.

§ 402.14-2 *Waiver of tax and insurance accounts.* Waivers of the provisions of the Regulations requiring the establishment, in whole or in part, of a Tax and Insurance Account is not generally contemplated.

In unusual cases where a waiver of Regulations requirements involving the establishment in whole or in part of a Tax and Insurance account is recommended by the Regional Manager, the case shall be forwarded, with full justification, to the General Manager for determination and direction.

§ 402.14-3 *Suspension of tax and insurance accrual.* Suspensions of any accrual in a Tax and Insurance account, where the Corporation's right to establish the accrual at some later time is preserved may be authorized in the following instances:

(a) The Regional Manager may suspend the accrual for any of the tax items in cases where the home owner receives credit on taxes to be paid for services rendered, is entitled to abatement of taxes, or under similar circumstances where payment of the home owner's taxes by the Corporation through the Tax and Insurance account would cause the home owner to be deprived of any special rights with respect to the payment of such taxes.

(b) The Regional Manager shall suspend the accrual for insurance premiums (1) in cases where the home owner has furnished to the Corporation insurance for a term equal to the remaining term of the loan or sale, or (2) after a Tax and Insurance account has been established when the home owner has replaced insurance held by the Corporation in conformity with the Corporation's requirements, as set forth in § 409.01 et seq.

(c) If approved by the General Manager, the Regional Manager may suspend the accrual for insurance premiums (1) in cases where extensions are granted or advances have been made by the Corporation and the circumstances of the case are unusual, and (2) in cases where home owners have maintained their accounts in good standing and are willing to accumulate funds for the payment of tax items only.

§ 402.14-6 *Suspension and reestablishment of insurance accruals.* When a Tax and Insurance account is established for a home owner and accruals provide for the accumulation of funds for insurance premiums, such accruals shall not be suspended until existing insurance

in an amount required by the Corporation has expired and the home owner has replaced existing insurance policies with insurance acceptable to the Corporation in accordance with § 409.01 et seq. If the home owner has furnished such insurance in the amount required by the Corporation, the accrual for insurance shall be suspended and he shall be so notified.

If the home owner does not furnish such insurance, the necessary insurance shall be ordered by the Corporation through its contract carrier, based upon the requirements of the Corporation as set forth in § 409.01 et seq., and the home owner's accrual for insurance shall not be suspended.

If insurance accruals are suspended, the funds accumulated in the Tax and Insurance account for insurance premiums may be credited to the home owner's loan or sales account.

If the insurance accrual is suspended, it shall be reestablished upon the home owner's failure at any future time to deliver insurance policies to the Corporation in accordance with its regulations. In these cases the Insurance Section shall advise the Control Supervisor on Form RO–I–334 of the home owner's failure to furnish acceptable insurance at the time insurance is ordered through the Corporation's contract carrier and shall complete both sides of a new Form 198 based upon the requirements of the Corporation at that time. The Control Supervisor shall place one copy of the new Form 198 in the correspondence file, forward one copy with proper notice to the home owner, and reestablish the insurance accrual by advice to the Regional Accountant on Form RO–I–334.

No funds accumulated in the Tax and Insurance account for insurance premiums shall be paid direct to agents for insurance ordered by the home owner.

§ 402.14–8 *Change in status of the mortgaged property affecting account.* In cases where a Tax and Insurance account has been established and notice of transfer of the property, death of the home owner, or similar matters affecting the account are received, it is assumed that the present Tax and Insurance account will continue in effect unless the Regional Manager, with the advice of the Regional Counsel, shall otherwise direct. Upon receipt of notice of foreclosure from the Regional Manager, the Regional Accountant will transfer any credit balance in the Tax and Insurance account to the loan account. In cases where withdrawal from foreclosure is authorized, the Tax and Insurance account will be established or reestablished as the case may be in accordance with § 402.03–20.

(Effective date August 1, 1940, except that as to procedure for Tax and Insurance accounts in cases of sales by the Corporation, this order shall be effective on the same date on which § 402.14 becomes effective as to sales cases.)

(Above procedure promulgated by General Manager and General Counsel pursuant to authority vested in them by the Federal Home Loan Bank Board acting pursuant to secs. 4 (a), 4 (k) of Home Owners' Loan Act of 1933, 48 Stat. 129, 132, as amended by section 13 of the Act of April 27, 1934, 48 Stat. 647: 12 U.S.C. 1463 (a), (k)).

[SEAL] H. CAULSEN,
Assistant Secretary.

[F. R. Doc. 40–3186; Filed, Aug. 1, 1940; 2:48 p. m.]

[Administrative Order No. 784]

PART 407—TREASURY

COLLECTION OFFICES USING VALIDATING MACHINES—VALIDATION OF A COMPLETE BILLING FORM

Section 407.33–27 is amended to read as follows:

§ 407.33–27 *Validation of coupons.* In collection offices where the use of validating machines has been authorized a complete billing form, or both halves of such other standard HOLC Form as is provided, shall be validated for each remittance received including those received through the mail. Said validation will imprint the same information as set forth in Article 730–8 of the Consolidated Manual of Home Owners' Loan Corporation.

Where a complete billing form does not accompany the remittance the Teller shall prepare an appropriate standard HOLC Form in duplicate and validate both halves of the form. For over-the-counter payments the portion of the form bearing the validation imprint "Received Payment—HOLC" shall be given to the payer as his receipt. However, on mail receipts such portion shall be disposed of as is provided in Article 733–10 of the Consolidated Manual.

(Effective date August 1, 1940)

(Above procedure promulgated by Treasurer with approval of General Councel, General Manager and Budget Director pursuant to authority vested in them by the Federal Home Loan Bank Board acting pursuant to secs. 4 (a), 4 (k) of Home Owners' Loan Act of 1933, 48 Stat. 129, 132, as amended by section 13 of the Act of April 27, 1934, 48 Stat. 647: 12 U.S.C. 1463 (a), (k)).

[SEAL] H. CAULSEN,
Assistant Secretary.

[F. R. Doc. 40–3187; Filed, August 1, 1940; 2:48 p. m.]

PART 409—INSURANCE

INSURANCE REQUIREMENTS—FIRE INSURANCE, WHERE INDEBTEDNESS EXCEEDS DWELLING VALUE BUT NOT IMPROVEMENT VALUE, AND WHERE INDEBTEDNESS IS EQUAL TO OR LESS THAN DWELLING VALUE

Items (ii) and (iii) under paragraph (b) (3) of § 409.01 are amended to read as follows:

(ii) If the amount of the present indebtedness is more than the depreciated replacement value of the main dwelling, but less than the depreciated replacement value of all insurable improvements, insurance in the amount of 100% shall be required on the main dwelling and in addition, sufficient insurance shall be required on the remaining buildings in an amount necessary to bring the total amount of insurance to the present indebtedness, covering one or more of the remaining buildings, as recommended by the Regional Insurance Supervisor.

(iii) If the amount of the present indebtedness is equal to or less than the depreciated replacement value of the main dwelling, insurance shall be required on the main dwelling in an amount equal to the present indebtedness. If the other buildings or improvements are essential economically as a means of liquidating the loan or sales account and produce a reasonable portion or all of the home owner's income, either as a rental property or commercial interest of the home owner, then, upon the recommendation of the Regional Insurance Supervisor, the Regional Manager may, in his discretion, also require on the said other buildings such amounts of insurance as circumstances warrant.

(Effective date August 1, 1940)

(Secs. 4 (a), 4 (k) of Home Owners' Loan Act of 1933, 48 Stat. 129, 132 as amended by section 13 of the Act of April 27, 1934, 48 Stat. 647: 12 U.S.C. 1463 (a), (k)).

[SEAL] H. CAULSEN,
Assistant Secretary.

JULY 25, 1940.

[F. R. Doc. 40–3188; Filed, August 1, 1940; 2:49 p. m.]

[Administrative Order No. 943]

PART 409—INSURANCE

WINDSTORM INSURANCE REQUIREMENTS, GROUPS 2 AND 3; EXTENDED COVERAGE CASES

Section 409.01–1 is amended as follows:

Immediately following the words "Group 2", the following is substituted in lieu of the present wording:

Windstorm insurance is required up to one-half the depreciated replacement value of the main dwelling and if fire insurance has been required on other buildings and improvements, then windstorm insurance shall likewise be required on these same other buildings and improvements in an amount equal to one-half their respective depreciated replacement values.

Immediately following the words "Group 3", the following is substituted in lieu of the present wording:

Windstorm insurance is required up to one-third of the depreciated replacement value of the main dwelling and if fire insurance has been required on other buildings and improvements, then windstorm insurance shall likewise be required in an amount equal to one-third the depreciated replacement value of all such other buildings and improvements having an individual value of $600 and over.

The following paragraph is added to precede immediately the last paragraph of the said § 409.01–1:

In cases where the Corporation orders insurance for a home owner, "extended coverage" or "supplemental coverage" may be secured upon specific request of the home owner and if windstorm insurance is required in the particular state, the "extended coverage" or "supplemental coverage" may be considered as complying with the windstorm requirement.

(Effective date August 1, 1940)

Above procedure promulgated by General Manager and General Counsel pursuant to authority vested in them by the Federal Home Loan Bank Board acting pursuant to secs. 4 (a), 4 (k) of Home Owners' Loan Act of 1933, 48 Stat. 129, 132, as amended by section 13 of the Act of April 27, 1934, 48 Stat. 647: 12 U.S.C. 1463 (a), (k)).

[SEAL] H. CAULSEN,
Assistant Secretary.

[F. R. Doc. 40–3189; Filed, August 1, 1940; 2:49 p. m.]

TITLE 26—INTERNAL REVENUE

CHAPTER I—BUREAU OF INTERNAL REVENUE

[T. D. 4994]

SUBCHAPTER C—MISCELLANEOUS EXCISE TAXES

PART 178—PRODUCTION, FORTIFICATION, TAX PAYMENT, ETC., OF WINE

Tax on Wine and Withdrawal of Brandy for Fortification (Amending Regulations No. 7)

The Act of June 24, 1940 (Public, No. 655, 76th Congress), reads in part as follows:

That, effective July 1, 1940, section 3030 (a) (1), Internal Revenue Code, is amended to read as follows:

"(A) *Imposition.* Upon all still wines, including vermouth, and all artificial or imitation wines or compounds sold as still wine produced in or imported into the United States after June 30, 1940, or which on July 1, 1940, were on any winery premises or other bonded premises or in transit thereto or at any customhouse, there shall be levied, collected, and paid taxes at rates as follows, when sold or removed for consumption or sale:

"On wines containing not more than 14 per centum of absolute alcohol, 5 cents per wine-gallon, the per centum of alcohol under this section to be reckoned by volume and not by weight;

"On wines containing more than 14 per centum and not exceeding 21 per centum of absolute alcohol, 15 cents per wine-gallon;

"On wines containing more than 21 per centum and not exceeding 24 per centum of absolute alcohol, 25 cents per wine gallon;

"All such wines containing more than 24 per centum of absolute alcohol by volume shall be classed as distilled spirits and shall pay tax accordingly.

"Any such wines may, under such regulations as the Commissioner may prescribe, with the approval of the Secretary, be sold or removed tax-free for the manufacture of vinegar, or for the production of dealcoholized wines containing less than one-half of 1 per centum of alcohol by volume.

"The taxes imposed by this subparagraph (A) of this paragraph shall not apply to dealcoholized wines containing less than one-half of 1 per centum of alcohol by volume; nor, subject to regulations prescribed by the Commissioner, with the approval of the Secretary, to wines produced for the family use of the duly registered producer thereof and not sold or otherwise removed from the place of manufacture and not exceeding in any case two hundred gallons per year."

SEC. 2. Effective July 1, 1940, section 3030 (a) (2), Internal Revenue Code, is amended to read as follows:

"(2) *Sparkling wines, liqueurs, and cordials.* Upon the following articles which are produced in or imported into the United States, after June 30, 1940, or which on July 1, 1940, are on any winery premises or other bonded premises or in transit thereto or at any customhouse, there shall be levied, collected, and paid, in lieu of the internal-revenue taxes imposed thereon by law prior to such date, taxes at rates as follows, when sold, or removed for consumption or sale:

"On each bottle or other container of champagne or sparkling wine, 2½ cents on each one-half pint or fraction thereof;

"On each bottle or other container of artificially carbonated wine, 1¼ cents on each one-half pint or fraction thereof;

"On each bottle or other container of liqueurs, cordials, or similar compounds, by whatever name sold, or offered for sale, containing sweet wine, citrus-fruit wine, peach wine, cherry wine, berry wine, apricot wine, prune wine, plum wine, pear wine, or apple wine, fortified, respectively, with grape brandy, citrus-fruit brandy, peach brandy, cherry brandy, berry brandy, apricot brandy, prune brandy, plum brandy, pear brandy, or apple brandy, 1¼ cents on each one-half pint or fraction thereof.

"Any of the foregoing articles containing more than 24 per centum of absolute alcohol by volume (except vermouth, liqueurs, cordials, and similar compounds made in rectifying plants and containing tax-paid sweet wine, citrus-fruit wine, peach wine, cherry wine, berry wine, apricot wine, prune wine, plum wine, pear wine, or apple wine, fortified, respectively, with grape brandy, citrus-fruit brandy, peach brandy, cherry brandy, berry brandy, apricot brandy, prune brandy, plum brandy, pear brandy, or apple brandy) shall be classed as distilled spirits and shall be taxed accordingly.

"The Commissioner under regulations prescribed by him, with the approval of the Secretary, is authorized to remit, refund, and pay back the amount of all taxes on such liqueurs, cordials, and similar compounds paid by or assessed against rectifiers at the distilled spirits rate prior to June 26, 1936."

SEC. 3. Effective July 1, 1940, section 3031 (a), Internal Revenue Code, is amended to read as follows:

"(a) Withdrawal of spirits for fortification.—Under such regulations and official supervision and upon the giving of such notices and entries as the Commissioner, with the approval of the Secretary, may prescribe, any producer of wines defined under the provisions of this subchapter may withdraw from any fruit distillery or internal revenue bonded warehouse grape brandy (hereinafter in this section included in the term 'brandy'), or wine spirits, for the fortification of such wines on the premises where actually made, and any producer of citrus-fruit wines, peach wines, cherry wines, berry wines, apricot wines, prune wines, plum wines, pear wines, or apple wines (hereafter in this section included in the term 'wines') may similarly withdraw citrus-fruit brandy, peach brandy, cherry brandy, berry brandy, apricot brandy, prune brandy, plum brandy, pear brandy, or apple brandy (hereafter in this section included in the term 'brandy') for the fortification of wines as set forth in section 3032, Internal Revenue Code, on the premises where actually made. The amounts of tax at the rate imposed by law on such brandy or wine spirits shall be charged immediately upon withdrawal against the producer withdrawing the same: Provided, That whenever such brandy or wine spirits shall be lawfully used in the fortification of wines and accounted for in the manner provided by law and regulations, the producer shall be credited in the amount of the internal-revenue tax on so much of the brandy or wine spirits so withdrawn as was so used. Every producer of wines who withdraws such brandy or wine spirits shall give bond to fully cover at all times the payment of the internal-revenue tax at the rate imposed by law due on such brandy or wine spirits, which bond shall be in such form as the Commissioner, with the approval of the Secretary, shall, by regulations, prescribe. On and after July 1, 1940, the internal-revenue tax on such brandy or wine spirits shall be assessed against the producer of such wines who has withdrawn brandy or wine spirits for use in the fortification of such wines when such brandy or wine spirits are not lawfully used in the fortification of wines, or when such brandy or wine spirits are not so accounted for in the manner provided by law and regulations as to warrant remission of the tax.

"Nothing contained in this section shall be construed as exempting any wines, cordials, liqueurs, or similar compounds from the payment of any tax provided for in this subchapter.

"Any such wines may, under such regulations as the Commissioner may prescribe, with the approval of the Secretary, be sold or removed tax-free for the manufacture of vinegar, or for the production of dealcoholized wines containing less than one-half of 1 per centum of alcohol by volume.

"The taxes imposed by this subchapter shall not apply to dealcoholized wines containing less than one-half of 1 per centum of alcohol by volume."

Section 210 (Miscellaneous Excises) of the Revenue Act of 1940 (Public, No. 656, 76th Congress), approved June 25, 1940, reads in part as follows:

"The Internal revenue Code is amended by inserting at the end of chapter 9 the following new chapter:

"CHAPTER 9A—DEFENSE TAX FOR FIVE YEARS

"SEC. 1650. *Defense tax for five years.*

"(a) In lieu of the rates of tax specified in such of the sections of this title as are set

forth in the following table, the rates applicable with respect to the period after June 30, 1940, and before July 1, 1945, shall be the rates set forth under the heading 'Defense-Tax Rate':

Section	Description of tax	Old rate	Defense-tax rate
* * *	* * *	*	*
3250 (a) (1)	Wholesalers in liquor	$100	$110
3250 (b)	Retailers in liquor	25	27.50
* * *	* * *	*	*

Section 214 (Wines and Fermented Malt Liquors) of the Revenue Act of 1940 (Public, No. 656, 76th Congress), approved June 25, 1940, reads in part as follows:

Chapter 26 of the Internal Revenue Code is amended by inserting at the end thereof the following new subchapter:

"SUBCHAPTER F—DEFENSE TAX FOR FIVE YEARS

"SEC. 3190. *Defense tax for five years.*

"In lieu of the rates of tax specified in such of the sections of this title as are set forth in the following table, the rates applicable with respect to the period after June 30, 1940, and before July 1, 1945, shall be the rates set forth under the heading 'Defense-tax Rate':

Section	Description of tax	Old rate	Defense-tax rate
		Cents	*Cents*
3030 (a) (1) (A)	Still wines	5	6
3030 (a) (1) (A)	Still wines	15	18
3030 (a) (1) (A)	Still wines	25	30
3030 (a) (2)	Sparkling wines	2½	3
3030 (a) (2)	Sparkling wines	1¼	1½
* * *	* * *	*	*

Pursuant to the above provisions of law, Paragraphs 48, 112, 113, 114, 155, 161, 205, 215, 284, 285, 291, 309, 310, and 311, Regulations No. 7, as amended[1] (Part 178, Title 26, Code of Federal Regulations), are hereby amended to read as follows:

PAR. 48. *Bond Form 700-A.* Except as otherwise provided herein, proprietors of bonded wineries and bonded storerooms shall furnish a separate bond on Form 700-A, in triplicate, with surety or security to cover each winery or storeroom. No wine may be produced or received, and no brandy may be withdrawn for fortification until proper bond is filed and the notice and bond are approved by the district supervisor. Bonds on Form 700-A will be in a penal sum sufficient:

(1) To cover the amount of the tax on all wine to be produced, received, and stored at the bonded winery, received and stored at the bonded storeroom, and in transit from such premises to other bonded premises, at any one time; and

(2) To cover the amount of the tax at the rate imposed by law on all brandy or wine spirits to be withdrawn for use in the fortification of wine and in transit to, or stored at, the bonded winery at any one time.

The penal sum of the bond shall be calculated on the basis of the wine and brandy or wine spirits tax rates, and the maximum quantity of either or both wine or brandy involved, and shall not be less than $500 nor more than $50,000; but where the aggregate amount of either or both such taxes exceeds the amount of bond, additional bond or bonds with surety or security shall be furnished, provided that where the liability to such taxes exceeds $50,000, the penal sum of the additional bond or bonds shall be calculated on the basis of the tax on the excess brandy or wine spirits only. Should the winemaker neglect to file the requisite bond, the district supervisor will refuse to allow him to produce or receive wine or withdraw brandy or wine spirits for fortification until the charges against the outstanding bond are reduced sufficiently to permit such further operations. The filing of blanket bonds by winemakers is not permissible.

Bonds guaranteeing the payment of outstanding assessments of taxes on brandy withdrawn and used in the fortification of wines shall continue in effect as to such taxes except that in the case of a superseding or succeeding bond, the liability shall be assumed by consent of surety on the superseding or succeeding bond.

PAR. 112. *Tax on still wines.* The following are the rates of tax on still wines, artificial or imitation wines or compounds sold as still wines, and vermouth produced in a bonded winery, the per cent of alcohol to be reckoned by volume:

(a) 6 cents per wine gallon when containing not more than 14 per cent of absolute alcohol;

(b) 18 cents per wine gallon when containing more than 14 per cent and not exceeding 21 per cent of absolute alcohol;

(c) 30 cents per wine gallon when containing more than 21 per cent and not exceeding 24 per cent of absolute alcohol;

(d) When containing more than 24 per cent of absolute alcohol, classed as distilled spirits and taxed accordingly.

PAR. 113. *Tax on effervescent wine.* The following are the rates of tax on champagne or sparkling wine and artificially carbonated wine:

(a) On each bottle or other container of champagne or sparkling wine, 3 cents on each one-half pint or fraction thereof;

(b) On each bottle or other container of artificially carbonated wine, 1½ cents on each one-half pint or fraction thereof;

(c) Any of the foregoing articles containing more than 24 per cent of absolute alcohol by volume shall be classed as distilled spirits and shall be taxed accordingly.

PAR. 114. *Computing tax on champagne.* The tax on champagne, sparkling wine, and artificially carbonated wine must be computed on each bottle, and not on the aggregate contents of the case. Thus, the tax on a one-fifth gallon bottle of sparkling wine amounts to 12 cents, and on a case of 12 such bottles the tax amounts to $1.44.

PAR. 155. *Marking of packages.* When shipped each package must be plainly marked "For dealcoholization," in addition to bearing the marks required by Paragraph 102 of these regulations.

PAR. 161. *Retention of acetic acid on winery premises.* Winemakers may not retain acetic acid on the winery or storeroom premises. Where wine is to be converted into vinegar stock in accordance with the foregoing, the material required for such conversion must be brought into the winery or storeroom at the time of conversion, and any residue not used must be immediately removed from the winery or storeroom. Wine converted into vinegar stock must be kept separate and apart from other wines in the winery or storeroom during the period necessary for conversion and shipment. The vinegar stock must be removed from the winery or storeroom immediately after conversion. The officer supervising the conversion will see that these requirements are complied with. District Supervisors will advise the Commissioner of all conversions under supervision of their officers.

PAR. 205. *Denominations.* Stamps for the tax-payment of wines will be provided in denominations of ⅕ cent, ½ cent, 1 cent, 1¼ cents, 1½ cents, 2 cents, 2½ cents, 3 cents, 4 cents, 5 cents, 6 cents, 7½ cents, 10 cents, 12 cents, 15 cents, 18 cents, 20 cents, 24 cents, 30 cents, 36 cents, 40 cents, 48 cents, 50 cents, 60 cents, 72 cents, 80 cents, $1.00, $1.20, $1.44, $1.50, $1.60, $2.00, $2.50, $4.00, $4.80, $5.00, $9.60, $20, $40, $50, and $100.

PAR. 215. *Retail and wholesale liquor dealer.* Unless exempted by law, all persons who sell wines in quantities of less than 5 wine gallons to the same person at the same time are liable for special tax as retail dealers in liquors at the rate imposed by law, and all persons who sell wines in quantities of 5 wine gallons or more to the same person at the same time are liable for special tax as wholesale dealers in liquors at the rate imposed by law. Persons selling wine both in retail and wholesale quantities are liable for special taxes as both retail and wholesale dealers in liquors, except that no retail dealer incurs liability as a wholesale dealer solely by reason of sales of 5 wine gallons or more to the same person at the same time if such sales are for immediate consumption on the premises where sold.

PAR. 284. *Application on Form 276.* When the winemaker desires to begin fortification of wine, he will make appli-

[1] 5 F.R. 2408.

cation on part 1 of Form 276, Fortification of Wine, in triplicate, to the district supervisor for the assignment of an officer to supervise fortification of the wine, except that where the district supervisor has assigned an officer to the winery and authorized him to supervise fortification upon application of the winemaker, Form 276 will be filed directly with such officer. A separate application will be made for each month in which it is desired to fortify wine.

PAR. 285. *Action by district supervisor.* If the application is properly prepared and the winemaker's notice of intention to fortify wine, Form 605, has been filed with the district supervisor, and the use of a pipe line for the transfer of brandy has been approved, and the winemaker has procured or been authorized to procure brandy to fortify the wine, the district supervisor will, except in cases where the application is filed directly with a designated officer, as provided in Paragraph 284, execute part 2 of the form and deliver all three copies to the officer designated to supervise fortification.

PAR. 291. *Losses.* Each day wines are fortified the officer will also enter on Form 276 the information called for on that form, as indicated by the headings of the various columns and lines and the instructions printed on the form. Where losses have been sustained the officer will show the serial numbers of the packages involved, the quantity lost from each package, and the apparent reason for the loss. Losses from storage tanks will be determined at the end of the month during which wines are fortified or upon completion of fortification for the month, as provided in paragraph 296a. At the close of the month or upon completion of fortification for the month, the officer will complete the form, retain one copy at the winery as a permanent record, and forward the other two copies to the district supervisor, who will transmit one copy to the Commissioner with his brandy account, Form 290.

Article LXII—Tax Liability on Brandy or Wine Spirits Withdrawn for Fortification.

PAR. 309. *Charge against winemaker.* The amounts of tax at the rates imposed by law on brandy or wine spirits withdrawn from a fruit distillery or an internal revenue bonded warehouse for the fortification of wine shall be charged against the winemaker immediately upon withdrawal of such brandy or wine spirits. When the brandy or wine spirits have been used lawfully in the fortification of wine and accounted for satisfactorily, the winemaker shall be given appropriate credit.

PAR. 310. *Record.* The district supervisor shall maintain a record which will enable a ready determination regarding the amount of brandy or wine spirits representing a potential tax liability under the winemaker's bond. The amount of fortifying brandy or wine spirits on hand at or deposited in the fortification room of the winery; the amount of brandy or wine spirits lost in transit to or in the fortification room of the winery; and the amount of brandy specified in approved applications on Form 257, but not reported deposited in the fortification room, shall be considered charges against the winemaker. The amounts of brandy or wine spirits shown on Form 275 (Storekeeper-Gauger's Report of Fortification of Wine) shall be considered credits for brandy or wine spirits used. Such credits shall be entered in the record by the District Supervisor immediately upon receipt of Form 275. The winemaker shall also be given credit in the record where the tax has been remitted or paid on losses of brandy or wine spirits. The District Supervisor shall not disapprove a winemaker's application on Form 257 for the withdrawal of brandy or wine spirits unless he has reason to believe that the penal sum of the winemaker's bond is not sufficient, under the provisions of Paragraph 48 of these regulations, to cover the tax liability on the amount of brandy or wine spirits covered by the application.

PAR. 311. *Assessment of tax.* Where it appears that brandy or wine spirits withdrawn by a winemaker have not been used lawfully in the fortification of wine or that the tax should not be remitted on a loss of brandy in transit to or at the fortification room of a winery, the district supervisor will transmit all pertinent papers with appropriate comment to the Commissioner. If tax is found to be due, it will be assessed by the Commissioner.

Paragraphs 49, 312, 313, 314, 315, and 315a, Regulations No. 7, as amended (Part 178, Title 26, Code of Federal Regulations) are hereby revoked, except as to rights or liabilities arising prior to July 1, 1940.

[SEAL] T. MOONEY,
Acting Commissioner of Internal Revenue.

Approved, July 30, 1940.

JOHN L. SULLIVAN,
Acting Secretary of the Treasury.

[F. R. Doc. 40-3182; Filed, August 1, 1940; 12:52 p. m.]

TITLE 36—PARKS AND FORESTS

CHAPTER II—FOREST SERVICE

DELEGATION OF AUTHORITY IN CONNECTION WITH LANDS ACQUIRED FOR LAND UTILIZATION PROGRAM WHICH HAVE BEEN TRANSFERRED TO THE FOREST SERVICE FOR ADMINISTRATION, PROTECTION, AND MANAGEMENT AS EXPERIMENTAL FORESTS

The Chief or Acting Chief of the Forest Service, or any employee of the Department whom either of them may designate in writing, is hereby specifically authorized, on behalf of the United States in connection with lands acquired for the land utilization program, administered under Title III and related sections of the Bankhead-Jones Farm Tenant Act, which have been or may hereafter be transferred to the Forest Service for administration, protection, and management as experimental forests, to perform the functions hereinafter outlined. The requirements of Department Regulations Nos. 1712 and 3312 which conflict with this authorization are hereby waived:

1. Conduct, either independently or in cooperation with individuals and public and private agencies, forestry and related investigations and experiments; determine the contribution to be made by each cooperator and the terms and conditions under which cooperation will be conducted; and dispose of or utilize the products resulting therefrom in such manner as is deemed most feasible and best calculated to effectuate the purposes of such investigations and experiments. If such products are disposed of by sale, competitive bids shall be solicited if their appraised value exceeds $500.

2. Execute leases, licenses, permits, agreements, and other forms of contracts permitting the use of such lands, when consistent with the purposes for which the experimental forests were established, for cropping, grazing, building occupancy, recreational and incidental purposes, provided they do not extend for more than ten years.

3. Execute easements, leases, licenses, and other forms of contracts permitting the construction and maintenance of telephone lines, pipe lines, roads, irrigation and drainage ditches, and similar facilities across such lands when such construction will not materially interfere with the purposes for which the experimental forests were established.

4. Execute easements, leases, and licenses for the acquisition of interests in real property.

5. Exercise all powers to revoke, terminate, or cancel contracts executed in accordance with the foregoing authority, or under which the United States has acquired, or may hereafter acquire, rights or obligations by virtue of the acquisition of such lands, which are exercisable either by the terms of the contracts themselves, or by operation of law.

6. Compromise claims and obligations which are not in excess of $500, and adjust and modify the terms of leases, contracts, and agreements executed in accordance with the foregoing authority, as circumstances may require.

The Chief or Acting Chief of the Forest Service is further authorized to issue such instructions to the officers and employees of the Forest Service and to establish such procedures for the guidance of cooperators and users of said lands as may be necessary in the exercise of the powers herein conferred.

Done at Washington, D. C., this 1st day of August 1940. Witness my hand and the seal of the Department of Agriculture.

[SEAL] H. A. WALLACE,
Secretary of Agriculture.

[F. R. Doc. 40-3191; Filed, August 1, 1940; 3:32 p. m.]

TITLE 46—SHIPPING

CHAPTER I—BUREAU OF MARINE INSPECTION AND NAVIGATION

[Order No. 44]

SUBCHAPTER A—DOCUMENTATION, ENTRANCE AND CLEARANCE OF VESSELS, ETC.

AMENDMENTS

AUGUST 1, 1940.

Class 9 of subsection (c) of § 1.3 *Vessels entitled to documents* is amended to read as follows:

Seagoing vessels, whether steam or sail, wherever built, when wholly owned by citizens of the United States or corporations, organized and chartered under the laws of the United States or any state thereof, the president and managing directors of which are citizens of the United States, (See 46 CFR 1.48).

Foreign-built vessels registered in accordance with the foregoing provisions of Class 9 shall engage only in trade with foreign countries, with the Philippine Islands, or the Islands of Guam, Tutuila, Wake, Midway, and Kingman Reef. They shall not engage in the coastwise trade, except as provided by sections 18 and 22 of the Merchant Marine Act, 1920 as amended, nor in the American fisheries.

Section 1.3 *Vessels entitled to documents* is also amended by the addition at the end thereof of a new subsection lettered (e) reading as follows:

(e) Any vessel falling within the provisions of any of the foregoing classes shall not engage in the coastwise trade if owned by a corporation, unless 75 per centum of the interest in that corporation is owned by citizens of the United States as required by law.

If any such registered vessel is owned by a corporation and is entitled to engage in the coastwise trade, the following notation must be made on the register:

"75 per centum of the interest in the corporation owning this vessel is owned by citizens of the United States as required by law. It may engage in the coastwise trade so long as so owned and no longer."

Subsection (b) of § 1.8 *Marine documents, kinds of* is amended to read as follows:

(b) Marine documents are of two descriptions—permanent, granted to vessels at their home ports,[6a] and temporary, granted to vessels at ports other than their home ports.

[6a] Under the "Seattle plan", which is in force in a number of customs districts, a vessel having its home port within the district may secure a permanent document at any other port of the same district from which marine documents issue.

Subsection (a) of § 1.12 *Registers* is amended to read as follows:

(a) Certificates of registry are requisite for vessels of the United States engaged in the foreign trade, and are permitted to such vessels engaged in the domestic trade (see 46 CFR 1.3 and 6.1). Blank forms (Commerce Form 1265) attested under the seal of the Department of Commerce will be furnished to collectors. (See 46 CFR 1.37).

The title to § 1.30 *Permanent enrollment or license or renewal thereof to a vessel absent from home port* is amended to read: *Permanent enrollment or license or renewal thereof, or permanent register, to a vessel absent from home port,* and subsection (a) of that section is amended to read as follows:

(a) Permanent enrollment and license or license or register may be issued to any vessel absent from her home port upon application to the collector or deputy collector thereof, through the office of the collector or deputy collector at the port at which the vessel may be, where the master's oath should first be taken.[25]

[25] The collector at the home port of a vessel may issue a permanent document for that vessel if the owner's and master's oaths are executed at the home port of the vessel even though the vessel may be outside the limits of the customs district within which the home port is situated.

Subsection (c) and (d) of § 1.31 *Renewal of licenses* are relettered (d) and (e), respectively, and a new subsection lettered (c) is inserted immediately following subsection (b) and reading as follows:

(c) If a license is presented for renewal at any time within thirty calendar days prior to the date of expiration shown thereon, it may be renewed for a period of one year from that date of expiration.

Section 1.32 *Surrender of permanent document* is amended to read as follows:

§ 1.32 *Surrender of permanent documents.*[30] Marine documents must be surrendered when a vessel is sold in whole or in part; when a vessel has been lost or taken by an enemy, or otherwise prevented from returning to the port to which she belongs; when a vessel is burnt or broken up; when a vessel is altered in form or burden by being lengthened, shortened, or built upon, or changed from one denomination to another by the method of rigging or fitting; when a vessel changes from one employment to another; when a vessel changes her name; when the president or the secretary of an incorporated company owning a vessel and whose name appears on the documents of such vessel dies, is removed, or resigns therefrom; and when a vessel arrives at her home port while under temporary documents. The approval of the United States Maritime Commission of the surrender of the document of the vessel covered by a preferred mortgage must be obtained except in cases stated in 46 CFR 1.37 (f).

[30] For statutory provisions, see R.S. 4146 as amended, 46 U.S.C. 23; R.S. 4160, 46 U.S.C. 30; R.S. 4170 as amended, 46 U.S.C. 39; R.S. 4322, 46 U.S.C. 264; R.S. 4325 as amended, 46 U.S.C. 267; Merchant Marine Act of 1920, sec. 30, subsec. O (a), 46 U.S.C. 961 (a); 49 Stat. 1987, 46 U.S.C., Sup. 1114.

Subsection (a) of § 1.37 *Exchange of documents* is amended to read as follows:

(a) Any enrolled and licensed or licensed vessel may be registered, and any registered vessel may be enrolled and licensed or licensed upon the surrender of her documents to the collector of any district; but neither enrollment nor license for the coasting trade or for the coasting trade and mackerel fishery shall be granted to a vessel prohibited by law from engaging in the coastwise trade, (46 CFR 1.3 and 1.48); neither enrollment nor license for the fisheries or for the coasting trade and mackerel fishery shall be granted to a vessel prohibited by law from engaging in the American fisheries, (46 CFR 1.3 and 1.48); nor to a vessel having on board merchandise brought from a foreign port until it be wholly unladen and the duties paid or secured.

Subsection (a) of § 1.47 *Transfer from Lakes to Seaboard* is amended to read as follows:

(a) When a vessel so enrolled and licensed leaves the inland waters of the frontier and engages in trade on the seaboard, she must surrender her frontier papers; and if bound on a foreign voyage partly by sea she must take, in lieu of her frontier papers, a certificate of registry (Commerce Form 1265). (For procedure for vessels engaged in trade between ports on the Atlantic and Gulf Coasts of the United States and United States ports on the Great Lakes, see 46 CFR 6.6.)

Subsection (e) of § 1.48 *Registry of foreign-built vessels under Revised Statutes 4132, as Amended* is amended to read as follows:

(e) Foreign-built vessels owned and documented prior to February 1, 1920, by persons citizens of the United States, and those owned by the United States on June 5, 1920, when sold to and owned by persons citizens of the United States, may not engage in the American fisheries, but are otherwise unlimited as to documents and trade so long as they continue in such ownership. When a marine document is issued to such a vessel, the following notation must be made thereon:

"As amended by section 5 of the Panama Canal Act and by the Act of August 18, 1914, and sections 22, 27, and 38 of the Merchant Marine Act of June 5, 1920, as amended. This vessel may not engage in the American fisheries."

If the vessel is owned by a corporation and is entitled to engage in the coastwise trade, the notation required by 46 CFR 1.3 (e) must also be made on the document.

Subsection (f) of the same section is amended to read as follows:

(f) Foreign-built vessels acquired by American citizens subsequent to February 1, 1920, or June 5, 1920, as the case may be, are limited to the foreign trade. When a register is issued to such a vessel, the following notation must be made thereon:

"As amended by section 5 of the Panama Canal Act, by the Act of August 18, 1914, by section 27 of the Merchant Marine Act of June 5, 1920, as amended, and by the Act of May 24, 1938, entitling the vessel to engage only in trade with foreign countries, with the Philippine Islands, or the Islands of Guam, Tutuila, Wake, Midway, and Kingman Reef. This vessel shall not engage in the coastwise trade or the American fisheries."

Subsection (a) of § 1.56 *Change of name of documented vessel* is amended to read as follows:

(a) The name of a documented vessel (including an enrolled and licensed or licensed yacht) shall not be changed except with the consent and approval of the Director of Marine Inspection and Navigation, under penalty of forfeiture.

Section 2.5 *Entry of American vessels,* is amended by the addition of a new subsection at the end thereof lettered (f) and reading as follows:

(f) The master shall deposit his register with the collector on or before the entry of the vessel. The register shall be returned by the collector upon clearance of the vessel, or upon its departure in cases where clearance is not required.

Subsection (b) of § 5.1 *Requirements of clearance* is amended to read as follows:

(b) In the event that departure is delayed beyond the second day after clearance, the delay must be reported to the collector who should note the fact of detention on the certificate of clearance and on the official record of clearance. If, after clearance, the proposed voyage is canceled, the reason therefor should be reported in writing and the certificate of clearance surrendered.

Subsection (h) of § 5.16 *Vessels clearing foreign via domestic ports* is amended to read as follows:

(h) Vessels proceeding to American ports in noncontiguous territory must conform to the procedure outlined in 46 CFR 6.4.

(Section 161 R.S., 5 U.S.C. 22)

[SEAL] ROBERT H. HINCKLEY,
Acting Secretary of Commerce.

[F. R. Doc. 40-3192; Filed, August 1, 1940; 4:18 p. m.]

Notices

DEPARTMENT OF THE INTERIOR.

General Land Office.

STOCK DRIVEWAY WITHDRAWAL NO. 44, WYOMING NO. 8, REDUCED

JULY 23, 1940.

Departmental orders of October 14, 1918, April 8, 1919, and January 31, 1920, establishing and modifying Stock Driveway Withdrawal No. 44, Wyoming No. 8, under section 10 of the act of December 29, 1916, 39 Stat. 862, as amended by the act of January 29, 1929, 45 Stat. 1144, are hereby revoked so far as they affect the following-described lands:

Sixth Principal Meridian

T. 49 N., R. 101 W., lot 9 sec. 8;
T. 50 N., R. 101 W., NE¼NW¼ sec. 18;
T. 49 N., R. 103 W., lots 3 and 4, S½ NW¼, SW¼ sec. 1, all sec. 2, SE¼NE¼, NW¼ SE¼, S½SE¼ sec. 10, all sec. 11, N½ NW¼ sec. 12, N½NW¼, SE¼NW¼ sec. 14, NE¼ sec. 15;
aggregating 2,124.78 acres.

OSCAR L. CHAPMAN,
Assistant Secretary of the Interior.

[F. R. Doc. 40-3193; Filed, August 2, 1940; 9:39 a. m.]

DEPARTMENT OF AGRICULTURE.

Farm Security Administration.

DESIGNATION OF COUNTIES FOR TENANT PURCHASE LOANS

NEVADA

AUGUST 2, 1940.

Pursuant to the provisions of Title I of the Bankhead-Jones Farm Tenant Act, and Section II 3 of Administration Order 230 of the Farm Security Administration, issued thereunder, and upon the basis of the recommendation of the Nevada State Farm Security Advisory Committee, the following counties are hereby designated as those in which loans, pursuant to said Title, may be made under the provisions of said Order for the fiscal year ending June 30, 1941: (1) that county which was designated for the making of loans for the fiscal year ending June 30, 1940; and (2) the following additional county:

Churchill

[SEAL] H. A. WALLACE,
Secretary of Agriculture.

[F. R. Doc. 40-3206; Filed, August 2, 1940; 11:53 a. m.]

FEDERAL SECURITY AGENCY.

Food and Drug Administration.

[Docket No. F.D.C.-21]

NOTICE OF PUBLIC HEARINGS FOR PURPOSE OF RECEIVING EVIDENCE UPON BASIS OF WHICH REGULATIONS MAY BE PROMULGATED FIXING AND ESTABLISHING A DEFINITION AND STANDARD OF IDENTITY FOR EACH OF THE FOLLOWING FOODS: (A) FLOUR, WHITE FLOUR, WHEAT FLOUR, PLAIN FLOUR; (B) DURUM FLOUR; (C) WHOLE WHEAT FLOUR, GRAHAM FLOUR, ENTIRE WHEAT FLOUR; (D) CRACKED WHEAT; (E) CRUSHED WHEAT; (F) WHOLE DURUM WHEAT FLOUR; (G) SELF-RISING FLOUR, SELF-RISING WHITE FLOUR, SELF-RISING WHEAT FLOUR; (H) PHOSPHATED FLOUR, PHOSPHATED WHITE FLOUR, PHOSPHATED WHEAT FLOUR; (I) FARINA; AND (J) SEMOLINA

Notice is given hereby that the Administrator of the Federal Security Agency, upon his own initiative and in accordance with the provisions of sections 401 and 701 (e) of the Federal Food, Drug, and Cosmetic Act, 52 Stat. 1046, 1055, 21 U.S.C. Secs. 341 and 371 (e) (Supp. V, 1939); the Reorganization Act of 1939, 53 Stat. 561, 5 U.S.C. Sec. 133 (Supp. V, 1939); and Reorganization Plans No. I (53 Stat. 1423, 4 F.R. 2727) and No. IV (54 Stat. ——, 5 F.R. 2421); will hold public hearings upon the proposals set forth herein, commencing at 10 o'clock in the morning of September 4th, 1940, in Rooms A, B, and C, Departmental Auditorium, Constitution Avenue, between 12th and 14th Streets NW., Washington, D. C., for the purpose of receiving evidence upon the basis of which regulations may be promulgated fixing and establishing a reasonable definition and standard of identity for each of the following foods: *flour, white flour, wheat flour, plain flour; durum flour; whole wheat flour, graham flour, entire wheat flour; cracked wheat; crushed wheat; whole durum wheat flour; self-rising flour, self-rising white flour, self-rising wheat flour; phosphated flour, phosphated white flour, phosphated wheat flour; farina,* and *semolina.*

All interested persons are invited to attend these hearings, either in person or by representative, and to offer evidence relevant and material thereto.

Mr. Alanson W. Willcox hereby is designated as presiding officer to conduct the hearings, in the place of the Administrator, with full authority to administer oaths and affirmations and to do all other things appropriate to the conduct of the hearings.

The hearings will be conducted in accordance with the rules of practice provided for such hearings, as published in the FEDERAL REGISTER of Wednesday, June 26, 1940, at pages 2379 to 2381 (5 F.R. 2379-2381).

In lieu of personal appearance, interested persons may offer affidavits by de-

livering the same to the presiding officer at Room 2240, South Building, Independence Avenue, between 12th and 14th Streets SW., Washington, D. C., on or before the date of the opening of the hearings. Such affidavits, if relevant and material, may be received and made a part of the record at the hearings, but the Administrator will consider the lack of opportunity for cross-examination in determining the weight to be given to statements made in the form of affidavits. Every interested person will be permitted to examine the affidavits offered and to file counter-affidavits with the presiding officer.

The proposed definitions and standards of identity attached hereto and made a part hereof are subject to adoption, rejection, amendment, or modification by the Administrator, in whole or in part, as the evidence adduced at the hearings may require.

Done at Washington, D. C., this 1st day of August 1940.

WAYNE COY,
Acting Administrator,
Federal Security Agency.

§ 15.000 *Flour, white flour, wheat flour, plain flour; identity; label statement of optional ingredients.* (a) Flour, white flour, wheat flour, plain flour, is the food prepared by grinding and bolting cleaned wheat containing not more than 10 percent by weight of durum wheat, red durum wheat, or any mixture of these; such proportion of malted wheat may be used as compensates for any natural deficiency of enzymes. The final bolting is through a cloth having openings not larger than those of No. 100 woven wire cloth which complies with the specifications for such cloth in "Standard Specifications for Sieves" published March 1, 1940, by the U. S. Department of Commerce, National Bureau of Standards. It is so freed from bran coats or germ, or both, that the percent of ash contained therein is not more than the sum of one-twentieth of the percent of protein contained therein and 0.3. Its moisture content is not more than 15 percent. Unless such addition conceals damage or inferiority of the flour or makes it appear better or of greater value than it is, one or any combination of two or more of the following optional bleaching ingredients may be added in a quantity not more than sufficient for bleaching, or in case such ingredient has an artificial aging effect, in a quantity not more than sufficient for bleaching and such artificial aging effect:

(1) Oxides of nitrogen.
(2) Chlorine.
(3) Nitrosyl chloride.
(4) Nitrogen trichloride.
(5) Benzoyl peroxide.

(b) When any optional bleaching ingredient is used, the label shall bear the word "Bleached". Wherever the name "Flour", "White Flour", "Wheat Flour", or "Plain Flour" appears on the label so conspicuously as to be easily seen under customary conditions of purchase, such word shall immediately and conspicuously precede or follow such name, without intervening written, printed, or graphic matter.

(c) For the purposes of this section—

(1) Ash content is determined by the method prescribed in the book "Official and Tentative Methods of Analysis of the Association of Official Agricultural Chemists", Fourth Edition, 1935, page 207, under "Method I—Official".

(2) Protein content is 5.7 times nitrogen content as determined by the method prescribed in such book on page 25, under "Kjeldahl-Gunning-Arnold Method—Official".

(3) Moisture content is determined by the method prescribed in such book on page 206, under "Vacuum Oven Method—Official".

(d) No provision of this section shall be construed as authorizing the addition of durum wheat, red durum wheat, or any mixture of these to other wheat used in preparing flour.

§ 15.010 *Durum flour, identity.* (a) Durum flour is the food prepared by grinding and bolting cleaned durum wheat containing not more than 10 percent by weight of wheat other than durum. The final bolting is through a cloth having openings not larger than those of No. 100 woven wire cloth which complies with the specifications for such cloth set forth in "Standard Specifications for Sieves" published March 1, 1940, by U. S. Department of Commerce, National Bureau of Standards. It is so freed from bran coats or germ, or both, that its ash content is not more than ---- ---- percent (to be fixed within the range of 1.2 percent to 1.5 percent). Its moisture content is not more than 15 percent.

(b) For the purposes of this section—

(1) Ash content is determined by the method prescribed in the book "Official and Tentative Methods of Analysis of the Association of Official Agricultural Chemists", Fourth Edition, 1935, page 207, under "Method I—Official".

(2) Moisture content is determined by the method prescribed in such book on page 206, under "Vacuum Oven Method—Official".

(c) No provision of this section shall be construed as authorizing the addition of wheat other than durum to durum wheat used in preparing durum flour.

§ 15.020 *Whole wheat flour, graham flour, entire wheat flour, identity.* (a) Whole wheat flour, graham flour, entire wheat flour, is the food prepared by so grinding cleaned wheat containing not more than 10 percent by weight of durum wheat, red durum wheat, or any mixture of these, that when tested by the method prescribed in subsection (b) (2) not more than 10 percent fails to pass through a No. 8 sieve and not less than 50 percent passes through a No. 20 sieve. The proportions of the natural constituents of such wheat, other than moisture, remain unaltered. Whole wheat flour contains not more than 15 percent of moisture.

(b) For the purposes of this section—

(1) Moisture is determined by the method prescribed in "Official and Tentative Methods of Analysis of the Association of Official Agricultural Chemists", Fourth Edition, 1935, page 206, under "Vacuum Oven Method—Official".

(2) The method referred to in subsection (a) is as follows: Use No. 8 and No. 20 sieves, having standard 8 inch full height frames, complying with the specifications for wire cloth and sieve frames in "Standard Specifications for Sieves" published March 1, 1940, by U. S. Department of Commerce, National Bureau of Standards. Fit a No. 8 sieve into a No. 20 sieve. Attach bottom pan to the No. 20 sieve. Pour 100 grams of the sample into the No. 8 sieve. Attach cover and hold the assembly in a slightly inclined position with one hand. Shake the sieves by striking the sides against the other hand with an upward stroke, at the rate of about 150 times per minute. Turn the sieves about one-sixth of a revolution, each time in the same direction, after each 25 strokes. Continue shaking for two minutes. Weigh the material which fails to pass through the No. 8 sieve and the material which passes through the No. 20 sieve. Record percent by weight of each such material.

(c) No provision of this section shall be construed as authorizing the addition of durum wheat, red durum wheat, or any mixture of these to other wheat used in preparing whole wheat flour.

§ 15.030 *Cracked wheat; identity.* (a) Cracked wheat is the food prepared by so cracking to angular fragments cleaned wheat containing not more than 10 percent by weight of durum wheat, red durum wheat, or any mixture of these, that when tested by the method prescribed in § 15.020 (b) (2) not more than 10 percent fails to pass through a No. 8 sieve and not more than 10 percent passes through a No. 20 sieve. The proportions of the natural constituents of such wheat, other than moisture, remain unaltered. Cracked wheat contains not more than 15 percent of moisture as determined by the method prescribed in "Official and Tentative Methods of Analysis of the Association of Official Agricultural Chemists", Fourth Edition, 1935, page 335, paragraph 1, "Preparation of Sample—Official" and paragraph 2, "Moisture I Drying with Heat—Official".

(b) No provision of this section shall be construed as authorizing the addition of durum wheat, red durum wheat, or any mixture of these to other wheat used in preparing cracked wheat.

§ 15.040 *Crushed wheat, identity.* (a) Crushed wheat is the food prepared by so crushing cleaned wheat containing not more than 10 percent by weight of

durum wheat, red durum wheat, or any mixture of these, that when tested by the method prescribed in § 15.020 (b) (2) more than 10 percent fails to pass through a No. 8 sieve and less than 50 percent but more than 10 percent passes through a No. 20 sieve. The proportions of the natural constituents of such wheat, other than moisture, remain unaltered. Crushed wheat contains not more than 15 percent of moisture as determined by the method prescribed in "Official and Tentative Methods of Analysis of the Association of Official Agricultural Chemists," Fourth Edition, 1935, page 335, under paragraph 1, "Preparation of Sample—Official" and paragraph 2, "Moisture I Drying with Heat—Official."

(b) No provision of this section shall be construed as authorizing the addition of durum wheat, red durum wheat, or any mixture of these to other wheat used in preparing crushed wheat.

§ 15.050 *Whole durum wheat flour, identity.* (a) Whole durum wheat flour is the food prepared by so grinding cleaned durum wheat containing not more than 10 percent by weight of wheat other than durum, that when tested by the method prescribed in § 15.020 (b) (2) not more than 10 percent fails to pass through a No. 8 sieve and not less than 50 percent passes through a No. 20 sieve. The proportions of the natural constituents of such wheat, other than moisture, remain unaltered. Whole durum wheat flour contains not more than 15 percent of moisture as determined by the method prescribed in "Official and Tentative Methods of Analysis of the Association of Official Agricultural Chemists", Fourth Edition, 1935, page 206, under "Vacuum Oven Method—Official".

(b) No provision of this section shall be construed as authorizing the addition of wheat other than durum to the durum wheat used in preparing whole durum wheat flour.

§ 15.060 *Self-rising flour, self-rising white flour, self-rising wheat flour; identity; label statement of optional ingredients.* (a) Self-rising flour, self-rising white flour, self-rising wheat flour, is an intimate mixture of flour, sodium bicarbonate, and mono-calcium phosphate. It may be seasoned with salt. When tested by the method prescribed in subsection (c) it yields not less than ____ percent (to be fixed within the range of 0.5 percent to 0.7 percent) of carbon dioxide. The weight of sodium bicarbonate used is not more than four-fifths of the weight of mono-calcium phosphate used; the sum of such weights is not more than ____ parts by weight (to be fixed within the range of 3.5 parts to 5.0 parts) for each 100 parts by weight of flour used. Subject to the conditions and restrictions prescribed by § 15.000 (a), the bleaching ingredients specified in such section may be added as optional ingredients. If the flour used in making the self-rising flour is bleached, the optional bleaching ingredient used therein (see § 15.000 (a)) is also an optional ingredient of the self-rising flour.

(b) When any optional bleaching ingredient is used, the label shall bear the word "Bleached". Wherever the name "Self-rising Flour", "Self-rising White Flour", or "Self-rising Wheat Flour" appears on the label so conspicuously as to be easily seen under customary conditions of purchase, such word shall immediately and conspicuously precede or follow such name, without intervening written, printed, or graphic matter.

(c) The method referred to in subsection (a) is the method prescribed in "Official and Tentative Methods of Analysis of the Association of Official Agricultural Chemists", Fourth Edition, 1935, beginning on page 184, under "Gasometric Method Using Chittick's Apparatus—Official", except that the following procedure is substituted for the procedure specified therein under "6—Determination."

Weigh 17 grams of the official sample into flask A, add 15–20 glass beads (4–6 mm. diameter) and connect this flask with the apparatus (fig. 19). Open stopcock C and by means of the leveling bulb E bring the displacement solution to the 25 cc. graduation above the zero mark. (This 25 cc. is a partial allowance for the volume of acid to be used in the decomposition). Allow the apparatus to stand 1–2 minutes to insure that the temperature and pressure within the apparatus are the same as those of the room. Close the stopcock, lower the leveling bulb somewhat to reduce the pressure within the apparatus, and slowly run into the decomposition flask from burette F 45 cc. of sulphuric acid (1+5). To prevent the liberated carbon dioxide from escaping through the acid burette into the air, keep the displacement solution in the leveling bulb at all times during the decomposition at a lower level than that in the gas-measuring tube. Rotate and then vigorously agitate the decomposition flask for three minutes to mix the contents intimately. Allow to stand for ten minutes to bring to equilibrium. Equalize the pressure in the measuring tube by means of the leveling bulb and read the volume of gas from the zero point on the tube. Deduct 20 cc. from this reading (this 20 cc. together with previous allowance of 25 cc. compensates for the 45 cc. acid used in the decomposition). Observe the temperature of the air surrounding the apparatus and also the barometric pressure and multiply the number of cc. of gas evolved by the factor given in Table 24—Chapter XLII for the temperature and pressure observed. Divide the corrected reading by 100 to obtain the apparent percent by weight of carbon dioxide in the official sample.

Correct the apparent percent of carbon dioxide to compensate for varying atmospheric conditions by immediately assaying a synthetic sample by the same method in the same apparatus.

The synthetic sample is prepared with 16.2 grams of flour, 0.30 gram of mono-calcium phosphate, 0.30 gram of salt, and a sufficient quantity of Sodium Bicarbonate U. S. P. (dried over sulphuric acid) to yield the amount of carbon dioxide recovered in assay of official sample. This quantity is determined by multiplying weight of carbon dioxide recovered in assay of official sample by 1.91.

The weight of carbon dioxide recovered from synthetic sample is divided by weight of carbon dioxide contained in sodium bicarbonate used and quotient recorded.

The apparent percent of carbon dioxide in official sample is divided by this quotient to obtain percent carbon dioxide in official sample.

§ 15.070 *Phosphated flour, phosphated white flour, phosphated wheat flour; identity; label statement of optional ingredients.* (a) Phosphated flour, phosphated white flour, phosphated wheat flour, is an intimate mixture of flour and not less than ___ percent (to be fixed within the range of 0.25 percent to 0.5 percent), but not more than ___ percent (to be fixed within the range of 0.75 percent to 1.0 percent), of mono-calcium phosphate. Subject to the conditions and restrictions prescribed by § 15.000 (a), the bleaching ingredients specified in such section may be added as optional ingredients. If the flour used in making the phosphated flour is bleached, the optional bleaching ingredient used therein (see § 15.000 (a)) is also an optional ingredient of the phosphated flour.

(b) When an optional bleaching ingredient is used, the label shall bear the word "Bleached". Wherever the name "Phosphated Flour", "Phosphated White Flour", or "Phosphated Wheat Flour" appears on the label so conspicuously as to be easily seen under customary conditions of purchase, such word shall immediately and conspicuously precede or follow such name, without intervening written, printed, or graphic matter.

§ 15.080 *Farina; identity.* (a) Farina is the food prepared by grinding and bolting cleaned wheat containing not more than 10 percent by weight of durum wheat, red durum wheat, or any mixture of these. It is ground to such fineness that when tested by the method prescribed in subsection (b) (2) it passes through a No. 20 sieve but not more than _____ percent (to be fixed within the range of 1 percent to 3 percent) passes through a No. 100 sieve. It is so freed from bran coats or germ, or both, that its ash content is not more than _____ percent (to be fixed within the range of 0.45 percent to 0.65 percent). Its moisture content is not more than 15 percent.

(b) For the purposes of this section—

(1) Ash content is determined by the method prescribed on page 207, under

"Method I—Official", and moisture content by the method prescribed on page 206, under "Vacuum Oven Method—Official", of "Official and Tentative Methods of Analysis of the Association of Official Agricultural Chemists", Fourth Edition, 1935.

(2) The method referred to in subsection (a) is as follows: Use No. 20 and No. 100 sieves, having standard 8 inch full height frames, complying with the specifications for wire cloth and sieve frames in "Standard Specifications for Sieves" published March 1, 1940, by U. S. Department of Commerce, National Bureau of Standards. Fit a No. 20 sieve into a No. 100 sieve. Attach bottom pan to the No. 100 sieve. Pour 100 grams of the sample into the No. 20 sieve. Attach cover and hold the assembly in a slightly inclined position with one hand. Shake the sieves by striking the sides against the other hand with an upward stroke, at the rate of about 150 times per minute. Turn the sieves about one-sixth of a revolution, each time in the same direction, after each 25 strokes. Continue shaking for two minutes. Weigh the material which fails to pass through the No. 20 sieve and the material which passes through the No. 100 sieve. Record percent by weight of each such material.

(c) No provision of this section shall be construed as authorizing the addition of durum wheat, red durum wheat, or any mixture of these to other wheat used in preparing farina.

§ 15.090 *Semolina; identity.* (a) Semolina is the food prepared by grinding and bolting cleaned durum wheat containing not more than 10 percent by weight of wheat other than durum. It is ground to such fineness that when tested by the method prescribed in § 15.080 (b) (2) it passes through a No. 20 sieve but not more than _____ percent (to be fixed within the range of 1 percent to 3 percent) passes through a No. 100 sieve. It is so freed from bran coats or germ, or both, that its ash content is not more than _____ percent (to be fixed within the range of 0.65 percent to 0.85 percent). Its moisture content is not more than 15 percent.

(b) For the purposes of this section—

Ash content is determined by the method prescribed on page 207, under "Method I—Official," and moisture content by the method prescribed on page 206, under "Vacuum Oven Method—Official," of "Official and Tentative Methods of Analysis of the Association of Official Agricultural Chemists," Fourth Edition, 1935.

(c) No provision of this section shall be construed as authorizing the addition of wheat other than durum to durum wheat used in preparing semolina.

[F. R. Doc. 40-3196; Filed, August 2, 1940; 10:03 a. m.]

SECURITIES AND EXCHANGE COMMISSION.

[File No. 70-90]

In the Matter of Kentucky Utilities Company

ORDER APPROVING APPLICATION

At a regular session of the Securities and Exchange Commission held at its office in the City of Washington, D. C., on the 29th day of July, A. D. 1940.

Kentucky Utilities Company, a subsidiary of The Middle West Corporation, a registered holding company, having filed an application pursuant to Rule U-12C-1 promulgated under the Public Utility Holding Company Act of 1935 for approval of the acquisition of $300,000 principal amount of its 4½% Sinking Fund Mortgage Bonds due 1955; a public hearing after appropriate notice having been duly held thereon; the Commission having considered the record and having made and filed its findings herein:

It is ordered, That the application be approved with respect to $165,000 principal amount of 4½% Sinking Fund Mortgage Bonds, due 1955, the amount by which the $300,000 principal amount of bonds proposed to be purchased exceeds the estimated amount of sinking fund requirements for the following twelve months, which amount is now exempt under Rule U-12C-1, as amended, subject, however, to the following conditions:

(1) That the acquisition of the bonds and all matters related thereto be carried out in all respects as set forth in the application and in accordance with the opinion and order of the Commission herein;

(2) That the applicant report to the Commission as soon as practicable after the close of each quarter calendar year its purchases of bonds during the preceding quarter, including for each purchase of bonds the face amount purchased, the cost per unit, a statement whether purchased direct from holders or over-the-counter, the amount of commissions and any other fees paid in connection with such acquisitions, the names and addresses of each broker or over-the-counter dealer through whom purchased, and the total price paid. Such report shall also show the disposition of such bonds with respect to the delivery of such bonds to the indenture trustee for cancellation;

(3) That no bonds shall be acquired directly or indirectly from an associate company, an affiliate, or an affiliate of an associate company;

(4) That the acquisitions pursuant to this application shall be made on or before June 1, 1941;

(5) That the Commission reserves jurisdiction to terminate the authorization hereby given whenever it shall appear necessary in the public interest, or the interests of investors or consumers.

By the Commission.

[SEAL] Francis P. Brassor, *Secretary.*

[F. R. Doc. 40-3197; Filed, August 2, 1940; 11:25 a. m.]

[File No. 70-126]

In the Matter of Texas Cities Gas Company, Community Natural Gas Company, Lone Star Gas Corporation

NOTICE REGARDING FILING SUBJECT TO RULE U-8

At a regular session of the Securities and Exchange Commission held at its office in the City of Washington, D. C., on the 31st day of July, A. D. 1940.

Notice is hereby given that a declaration and applications have been filed with this Commission pursuant to the Public Utility Holding Company Act of 1935 by the above named parties.

Notice is further given that any interested person may, not later than August 16, 1940 at 4:30 P. M., E. S. T., request the Commission in writing that a hearing be held on such matters, stating the reasons for such request and the nature of his interest, or may request that he be notified if the Commission should order a hearing thereon. At any time thereafter such declaration and applications, as filed or as amended, may become effective, as provided in Rule U-8 of the Rules and Regulations promulgated pursuant to said Act. Any such request should be addressed: Secretary, Securities and Exchange Commission, Washington, D. C.

All interested persons are referred to said declaration and applications, which are on file in the office of said Commission, for a statement of the transactions therein proposed, which are summarized below:

Texas Cities Gas Company, a wholly owned subsidiary of Lone Star Gas Corporation, proposes to sell all of its assets at book value to Community Natural Gas Company, which is also a wholly owned subsidiary of Lone Star Gas Corporation. The purchase price is to be paid by the purchaser's assuming the seller's liabilities, and issuing 40,000 shares of its $100 par common stock at par for the balance of the assets. The seller is to be dissolved, and the stock will be issued to Lone Star Gas Corporation, its parent, as seller's nominee. The net assets for which the stock is issued will be valued according to the balance sheet at the date of closing, which will be the first day of the month following the Commission's final order permitting the transaction. The amount by which the stock to be issued exceeds the value of the net assets will be credited by Lone Star Gas Corporation on notes of

Community Natural Gas Company held by it.

Pursuant to direction of the Commission.

[SEAL] FRANCIS P. BRASSOR,
Secretary.

[F. R. Doc. 40-3202; Filed, August 2, 1940; 11:26 a. m.]

[File No. 2-4165]

IN THE MATTER OF FREE TRADERS, INC.

STOP ORDER

At a regular session of the Securities and Exchange Commission, held at its office in the City of Washington, D. C., on the 1st day of August, A. D. 1940.

This matter coming on to be heard before the Commission on the registration statement of Free Traders, Inc., a Delaware corporation, after confirmed telegraphic notice to said registrant that it appeared that said registration statement included untrue statements of material facts and omitted to state material facts required to be stated and omitted to state material facts necessary to make the statements therein not misleading, and upon evidence received upon the allegations made in the notice of hearing duly served by the Commission on said registrant; and

The Commission having duly considered the matter, and finding that said registration statement includes untrue statements of material facts and omits to state material facts required to be stated therein and material facts necessary to make the statements therein not misleading, all as more fully set forth in the Findings and Opinion of the Commission this day issued; and

The Commission now being fully advised in the premises;

It is ordered, Pursuant to section 8 (d) of the Securities Act of 1933, that the effectiveness of the registration statement filed by Free Traders, Inc., a Delaware corporation, be and the same hereby is suspended.

By the Commission.

[SEAL] FRANCIS P. BRASSOR,
Secretary.

[F. R. Doc. 40-3203; Filed, August 2, 1940; 11:26 a. m.]

[File No. 70-125]

IN THE MATTER OF THE UNITED LIGHT AND POWER COMPANY

NOTICE REGARDING FILING SUBJECT TO RULE U-8

At a regular session of the Securities and Exchange Commission, held at its office in the City of Washington, D. C., on the 2nd day of August, A. D. 1940.

Notice is hereby given that a declaration and application has been filed with this Commission pursuant to the Public Utility Holding Company Act of 1935 by the above named party, and

Notice is further given that any interested person may, not later than August 19, 1940, at 4:30 P. M., E. S. T., request the Commission in writing that a hearing be held on such matter, stating the reasons for such request and the nature of his interest. At any time thereafter such declaration or application, as filed or as amended, may become effective or may be granted, as provided in Rule U-8 of the Rules and Regulations promulgated pursuant to said Act. Any such request should be addressed: Secretary, Securities and Exchange Commission, Washington, D. C.

All interested persons are referred to said declaration and application, which is on file in the office of said Commission, for a statement of the transactions therein proposed, which are summarized below:

Applicant seeks authorization to acquire from time to time prior to January 1, 1941 by purchase in the open market and by private purchase (at prices not to exceed the market price) at an aggregate cost not to exceed $1,000,000 any or all of the following classes of securities:

1. *The United Light and Power Company.*

United Light and Railways Company (Maine). Six Per Cent Debenture Bonds, Series A, due January 1, 1973.

Debentures, Series of 1924, 6½%, due May 1, 1974.

Debentures, 6% Series of 1925, due November 1, 1975.

2. *The United Light and Railways Company.*

Debentures, 5½% Series of 1927, due August 1, 1952.

Prior Preferred Stock, Cumulative, $100 par value:

7% First Series.

6.36% Series of 1925.

6% Series of 1928.

3. *Continental Gas & Electric Corporation.*

Debentures, 5% Series "A", due February 1, 1958.

Prior Preference Stock, 7% Cumulative, $100 par value.

Each issue of debentures above listed is unsecured. The United Light and Railways Company and Continental Gas & Electric Corporation, both registered holding companies, are subsidiaries of the applicant.

Applicant states that it has available funds and readily marketable securities in excess of its needs for interest and other requirements during the remainder of the year 1940, in an amount which exceeds the $1,000,000 required for the proposed acquisitions.

By the Commission.

[SEAL] FRANCIS P. BRASSOR,
Secretary.

[F. R. Doc. 40-3205; Filed, August 2, 1940; 11:26 a. m.]

[File No. 59-9]

IN THE MATTER OF STANDARD POWER AND LIGHT CORPORATION, STANDARD GAS AND ELECTRIC COMPANY AND SUBSIDIARY COMPANIES THEREOF, RESPONDENTS

ORDER DESIGNATING TRIAL EXAMINER UNDER SECTION 11 (B) (1) OF THE PUBLIC UTILITY HOLDING COMPANY ACT OF 1935

At a regular session of the Securities and Exchange Commission held at its office in the City of Washington, D. C., on the 1st day of August, A. D. 1940.

The Commission having entered an order herein providing that a hearing be held on August 8, 1940 at the Securities and Exchange Building, 1778 Pennsylvania Avenue NW., Washington, D. C.;

It is ordered, That Charles S. Lobingier, Esq., or any other officer or officers of the Commission designated by it for that purpose shall preside at the hearing in such matter. The officer so designated to preside at such hearing is hereby authorized to exercise all powers granted to the Commission under Section 18 (c) of said Act and to a Trial Examiner under the Commission's Rules of Practice.

It is further ordered, That on the date fixed for said hearing the hearing room clerk in Room 1102 will advise as to the room in which such hearing will be held.

By the Commission.

[SEAL] FRANCIS P. BRASSOR,
Secretary.

[F. R. Doc. 40-3204; Filed, August 2, 1940; 11:26 a. m.]

[File No. 59-5]

IN THE MATTER OF THE MIDDLE WEST CORPORATION AND ITS SUBSIDIARY COMPANIES, RESPONDENTS

ORDER REGARDING DISPOSAL OF MOTION

At a regular session of the Securities and Exchange Commission, held at its office in the City of Washington, D. C., on the 31st day of July, A. D. 1940.

The Commission having filed this day its Memorandum Opinion regarding a Motion of Respondents, filed with the trial examiner on July 30, 1940, requesting a modification or clarification of the Commission's order of July 10, 1940, herein and certain other action in connection therewith:

It is ordered, That said motion be, and the same hereby is, disposed of in accordance with said Memorandum Opinion.

By the Commission.

[SEAL] FRANCIS P. BRASSOR,
Secretary.

[F. R. Doc. 40-3199; Filed, August 2, 1940; 11:25 a. m.]

[File No. 70-18]

IN THE MATTER OF GENERAL WATER GAS & ELECTRIC COMPANY

SUPPLEMENTAL ORDER APPROVING APPLICATION

At a regular session of the Securities and Exchange Commission, held at its

office in the City of Washington, D. C., on the 31st day of July, A. D. 1940.

General Water Gas & Electric Company, a registered holding company and a subsidiary of International Utilities Corporation, also a registered holding company, having filed an application pusuant to Rule U-12C–1 adopted under section 12 (c) of the Public Utility holding Company Act of 1935 for approval of the purchase from time to time at current prices on the New York Curb Exchange or on the over-the-counter market of as many of General Water Works Corporation Fifteen Year 5% First Lien and Collateral Trust Gold Bonds, Series A, due June 1, 1943 (assumed by General Water Gas & Electric Company), as may be purchased with (a) the proceeds of the sale by its subsidiary, Indiana Water Works Company, of Revenue Bonds of the City of Greensburg, Indiana, amounting to $327,000, and (b) such sum as will be received from Walnut Electric & Gas Corporation as payment on its note or notes held by General Water Gas & Electric Company following the sale by Walnut Electric & Gas Corporation of the assets of its subsidiary, South Carolina Utilities Company, which sums are presently estimated not to exceed $600,000; General Water Gas & Electric Company having amended its application to include the purchase of as many of the bonds above described as may be purchased with the additional sum of $343,000, which sum has been deposited with the Trustee for the said bonds;

A hearing on said application having been held after appropriate notice; the record in this matter having been examined; and the Commission having made and filed its findings herein:

It is ordered, That the said application be and it is hereby approved insofar as the same concerns the use of $343,000, subject, however, to the following terms and conditions:

(1) That the applicant report to this Commission on the first and fifteenth day of each month following the date of our Order all acquisitions of bonds under this program. Such report shall specify the amounts thereof, the cost per unit, the amount of commission and any other fees paid in connection with such acquisitions, name and address of each broker or over-the-counter dealer, the total price for each purchase, the name and address of the vendor at any private sale, and where possible the name and address of the beneficial owner of any bond offered by such vendor;

(2) That all bonds purchased at private sale shall be paid for at a price (including fees if any) not to exceed the price (excluding brokerage fees) at which such bonds were last sold in a reported sale, to which sale neither the applicant nor the prospective seller nor any person acting in behalf of either was a party;

(3) That no bonds shall be purchased from any person or company in any way associated or affiliated with General Water Gas & Electric Company or International Utilities Corporation except in a transaction at current market price and wherein the affiliated or associated person or company functions solely as broker and receives as compensation no more than the customary brokerage fee; and

(4) That this order shall be summarily revokable if at any time this Commission shall deem the circumstances are such as to make further purchases no longer compatible with the public interest or the interest of investors and consumers. In any event this order shall expire on December 31, 1940.

It is further ordered, That the Commission hereby reserves jurisdiction with regard to the use by General Water Gas & Electric Company of any further funds to be received as above set out.

By the Commission.

[SEAL] FRANCIS P. BRASSOR,
Secretary.

[F. R. Doc. 40–3198; Filed, August 2, 1940; 11:25 a. m.]

[File No. 70–85]

IN THE MATTER OF STANDARD POWER AND LIGHT CORPORATION

SUPPLEMENTAL ORDER RELEASING JURISDICTION

At a regular session of the Securities and Exchange Commission held at its office in the City of Washington, D. C., on the 31st day of July, A. D. 1940.

An application having been filed by Standard Power and Light Corporation pursuant to Rule U-12C–1, promulgated under section 12 (c) of the Public Utility Holding Company Act of 1935 for approval of said Company's acquisition for retirement of 330,000 shares of its Common Stock, Series B, from H. M. Byllesby and Company, in accordance with the terms of a contract incorporated in said application, or, in the alternative, for approval of said acquisition without the execution of said contract; the Commission having considered said application also as a declaration pursuant to section 6 (a) (2) of the Public Utility Holding Company Act of 1935;

The order of the Commission dated June 27, 1940 approving the application and permitting the declaration to become effective having been made subject to the condition that the Commission reserve jurisdiction to pass upon the accounting entries to be made by Standard Power and Light Corporation in connection with the proposed acquisition and retirement of the above shares; and

It appearing from a further study of the accounting entries proposed to be made that jurisdiction should be released with respect thereto;

It is ordered, That jurisdiction be and it hereby is released with respect to said accounting entries.

By the Commission.

[SEAL] FRANCIS P. BRASSOR,
Secretary.

[F. R. Doc. 40–3200; Filed, August 2, 1940; 11:25 a. m.]

[File No. 70–113]

IN THE MATTER OF KENTUCKY UTILITIES COMPANY

ORDER APPROVING APPLICATION

At a regular session of the Securities and Exchange Commission held at its office in the City of Washington, D. C., on the 31st day of July, A. D. 1940.

Kentucky Utilities Company having filed an application pursuant to section 10 of the Public Utility Holding Company Act of 1935 concerning the acquisition of the utility assets of Kentucky Electric Development Company; and

A public hearing having been duly held after appropriate notice, and the Commission having examined the record in this matter and having filed its findings and opinion herein;

It is ordered, That said application to acquire said utility assets be and is hereby approved, subject, however, to the following conditions:

1. That the transaction be carried out for the purposes of and in accordance with the terms and conditions as represented in the application; and

2. That Kentucky Utilities Company file a certificate of notification within ten days after the consummation of this acquisition, stating that the acquisition has been carried out in accordance with the terms of this order, including a detailed statement of all fees and expenses hereon.

By the Commission.

[SEAL] FRANCIS P. BRASSOR,
Secretary.

[F. R. Doc. 40–3201; Filed, August 2, 1940; 11:25 a. m.]